

ARTICLE 89-12
MUNICIPAL, RURAL, AND INDUSTRIAL WATER SUPPLY PROGRAM

Chapter
89-12-01 Municipal, Rural, and Industrial Water Supply Program

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89-12-01-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Commission" is defined in North Dakota Century Code section 61-02-02.
2. "Department" is defined in North Dakota Century Code section 61-03-01.2.
3. "Design and construction" means preparation of the final design plans and the construction of a project.
4. "Feasibility study" means a report of sufficient detail to provide a sound estimate of capital costs, water costs to users, and operation, maintenance, and replacement costs.
5. "Garrison Diversion" means Garrison Diversion Conservancy District.
6. "Preliminary engineering report" means a reconnaissance level report containing sufficient information to determine whether additional detailed studies are merited.
7. "Program funds" means money available for municipal, rural, and industrial projects through the Garrison Diversion Reformulation Act of 1986, as amended by the Water Resources Development Act of 2000, Pub. L. 106-541, 114 Stat. 2572 (2000), administered by the bureau of reclamation.
8. "Public water system" means a piped potable water system with at least fifteen service connections or regularly serving at least twenty-five individuals.
9. "Regional water system" is a system that provides water to at least four public water systems and may also include rural water users.
10. "Rural water users" means all users, excluding incorporated cities.

History: Effective June 1, 1994; amended effective January 1, 2015; January 1, 2023.

General Authority: NDCC 61-02-11, 61-02-14

Law Implemented: NDCC 54-40-01, 57-51.1-07.1, 61-02-14, 61-02-24.1, 61-02-64, 61-24-08

89-12-01-02. Eligible projects.

1. Design and construction activities for the following types of projects are eligible for financial assistance from program funds:
 - a. New ground water wells including mechanical and electrical components.
 - b. Pipelines from water sources to public water systems and principal supply works for rural water systems.
 - c. Booster pumping plants for supply lines.
 - d. Intake works and pumping plants for new surface water sources.
 - e. New or enlarged storage facilities.
 - f. New rural water systems or enlargements or extensions of existing rural water systems.
 - g. New regional water systems or enlargements or extensions of existing regional water systems.
 - h. New water treatment plants.
 - i. Modifications to and upgrades of existing water treatment plants.
2. Program funds may be used for engineering and legal, costs, costs incurred in conducting environmental reviews or cultural resources investigations, right-of-way costs, excluding the purchase of easements, and costs associated with the planning, design, and construction of eligible projects listed in subsection 1.
3. Program funds are not available for costs associated with operation, maintenance, and replacement of water supply or treatment systems or the costs associated with the preparation of the preliminary engineering report.

History: Effective June 1, 1994; amended effective January 1, 2015.

General Authority: NDCC 61-02-11, 61-02-14

Law Implemented: NDCC 54-40-01, 57-51.1-07.1, 61-02-14, 61-02-24.1, 61-02-64, 61-24-08

89-12-01-03. Application for feasibility study funding.

1. To be considered for program funds, the project sponsor must submit an application to the department and Garrison Diversion that includes:
 - a. Information explaining the need for the project, including its objectives and benefits.
 - b. The area to be served by the project.
 - c. A preliminary engineering report.
 - d. The approximate cost of the project.
 - e. The amount of funding sought from program funds and the amount the project sponsor intends to contribute to the feasibility study.
 - f. The results of all efforts made to secure funds from sources other than program funds. Provide the current rate schedule for the water supply and treatment systems.
 - g. Other information the project sponsor believes pertinent or that the department requests.

2. During review of the application, the department, in consultation with Garrison Diversion, may decide which parts of the project are eligible for funding from program funds.
3. After review of the application, the department may prepare a report setting forth the recommendations regarding the project feasibility study funding. If a report is prepared, it must address whether the project is consistent with statewide plans and programs, and the department will provide a copy to the commission and Garrison Diversion.
4. The commission and Garrison Diversion will jointly approve program funds within the district.

History: Effective June 1, 1994; amended effective January 1, 2015; January 1, 2023.

General Authority: NDCC 61-02-11, 61-02-14(2)

Law Implemented: NDCC 54-40-01, 57-51.1-07.1, 61-02-14, 61-02-24.1, 61-02-64, 61-24-08

89-12-01-04. Application to determine eligibility - Initial review by the state engineer.

Repealed effective January 1, 2015.

89-12-01-05. Preliminary engineering reports - Initial review by state engineer - Bureau requirements.

Repealed effective January 1, 2015.

89-12-01-06. Application for design and construction funding.

1. A project sponsor requesting design or construction funding must submit a feasibility study to the department.
2. For projects that deliver Missouri River water to the Hudson Bay drainage area, a determination must be made that treatment will be provided to meet requirements of the Boundary Waters Treaty Act of 1909.
3. The project sponsor must submit two copies of the feasibility study to Garrison Diversion and one copy to the department.
4. After review of the feasibility study, the department, in consultation with Garrison Diversion, may prepare a report setting forth the recommendations regarding the project design or construction funding. If a report is prepared, it must address whether the project is consistent with statewide plans and programs. The department will provide a copy to the commission and Garrison Diversion.
5. The commission and Garrison Diversion will jointly approve program funds within the district.

History: Effective June 1, 1994; amended effective January 1, 2015; January 1, 2023.

General Authority: NDCC 61-02-11, 61-02-14(2)

Law Implemented: NDCC 54-40-01, 57-51.1-07.1, 61-02-14, 61-02-24.1, 61-02-64, 61-24-08

89-12-01-07. Design and construction requirements.

Repealed effective January 1, 2015.

89-12-01-08. Funding - Priority.

1. The commission may evaluate each eligible project based on the following criteria:
 - a. Need for improving water supply quantity or quality problems.

- b. Local contribution to project funding.
- c. Location of project.
- d. Ability to pay.
- e. Economic development.
- f. Water conservation plan and drought management plan.
- g. Other criteria determined to be relevant by the commission.

Based upon these evaluations, the commission, after consultation with Garrison Diversion, may rank the eligible projects in priority order.

2. Program funds may be approved for eligible projects to the extent funding is available as determined by the commission, after consultation with Garrison Diversion. Program funds may be in the form of grants or loans for feasibility, design, or construction.

History: Effective June 1, 1994; amended effective January 1, 2015.

General Authority: NDCC 61-02-11, 61-02-14

Law Implemented: NDCC 54-40-01, 57-51.1-07.1, 61-02-14, 61-02-24.1, 61-02-64, 61-24-08

89-12-01-09. Reports to commission and c-district.

Repealed effective January 1, 2015.

89-12-01-10. Contract awards.

Repealed effective January 1, 2015.