

DEPARTMENT OF ENVIRONMENTAL QUALITY

SURFACE WATER QUALITY DIVISION

CLEAN MICHIGAN INITIATIVE NONPOINT SOURCE POLLUTION CONTROL GRANTS

(By authority conferred on the department of environmental quality by section 8808 of 1994 PA 451, MCL 324.8808)

R 324.8801 Purpose.

Rule 1. These rules establish a program of nonpoint source pollution prevention and control grants using funds available under the clean Michigan initiative. These rules establish requirements for all of the following:

- (a) Approvable watershed plans.
- (b) Eligible applicants.
- (c) Selection criteria.
- (d) Project design and maintenance.
- (e) Reporting.

History: 1999 MR 10, Eff. Oct. 28, 1999.

R 324.8802 Definitions.

Rule 2. As used in these rules:

- (a) "Approved watershed management plan" means either of the following:
 - (i) A watershed management plan that meets the criteria established in R 324.8810 and approved by the director.
 - (ii) Remedial Action Plans and Lakewide Management Plans.
- (b) "Best management practices" means structural, vegetative, or managerial practices that reduce or prevent the detachment, transport, and delivery of nonpoint source pollutants to the surface waters of the state or groundwater.
- (c) "Department" means the department of environmental quality.
- (d) "Designated use" or "designated uses" means a use or uses of the surface waters of the state as established by part 4 of 1994 PA 451, MCL 324.401 et seq.
- (e) "Director" means the director of the department or his or her designee.
- (f) "Environmental sample" means the collection or analysis of information about any of the following:
 - (i) Vegetation.
 - (ii) Soils.
 - (iii) Fish.
 - (iv) Biota.
 - (v) Water
 - (vi) Habitat.
- (g) "Grant" means a nonpoint source pollution prevention and control project grant funded by the clean Michigan initiative bond.
- (h) "In-kind services" means services provided by the grant applicant or its partners including any of the following:
 - (i) Salaries and wages of project staff and others working on the project, including engineering services and volunteers.
 - (ii) Rent paid for office space, meeting rooms, or other indirect costs associated with the project.
 - (iii) The cost of renting or purchasing of equipment, materials, or supplies in excess of the costs paid for by the grant.
 - (iv) The costs of collecting and analyzing environmental samples or other environmental quality measurements to document improvement in water quality.
 - (v) The costs of installing best management practices or materials donated

for the implementation of best management practices.

(vi) Other resources acceptable by the department.

(i) "Lakewide Management Plan" means a plan developed under the Great Lakes water quality agreement between Canada and the United States, as amended in 1987.

(j) "Local unit of government" means any of the following entities:

(i) A county, city, village, or township or an agency of a county, city, village, or township.

(ii) The office of a county drain commissioner.

(iii) A soil conservation district established under part 93 of 1994 PA 451, MCL 324.9301 et seq.

(iv) A watershed council.

(v) A local health department as defined in section 1105 of 1978 PA 368, MCL 333.1105.

(vi) An authority or any other public body created by or under state law.

(k) "Match" means the portion of the total project cost that is to be paid by the applicant or its partners from public or private funding sources, excluding clean Michigan initiative funds and federal clean water act funds awarded as grants by the state.

(l) "Nonpoint source pollution" means water pollution from diffuse sources, including any of the following:

(i) Runoff from precipitation or snowmelt contaminated through contact with pollutants in the soil or on other surfaces and either infiltrating into the groundwater or being discharged to surface waters of the State.

(ii) Runoff or wind that causes the erosion of soil into surface waters of the State.

(iii) Stream bank erosion resulting from unstable hydrologic flows.

(m) "Not-for-profit entity" means an entity that is exempt from taxation under section 501(c)(3) of the internal revenue code.

(n) "Physical improvements" means structural or vegetative best management practices used to control nonpoint source pollution.

(o) "Project contract" means the legally binding agreement between the department and a recipient of a grant that establishes the terms and conditions of the work to be conducted.

(p) "Remedial action plan" means a plan developed under the Great Lakes water quality agreement between Canada and the United States, as amended in 1987.

(q) "Request for proposals" means the document used by the department to solicit proposals for grant funding.

(r) "Site" means a block or contiguous blocks of land that constitute a viable management unit.

(s) "Surface waters of the state" means all of the following, but does not include drainageways and ponds used solely for wastewater conveyance, treatment, or control:

(i) The Great Lakes and their connecting waters.

(ii) All inland lakes.

(iii) Rivers.

(iv) Streams.

(v) Impoundments.

(vi) Open drains.

(vii) Other surface bodies of water within the confines of the state.

(t) "Water quality standards" means the part 4 water quality standards developed under part 31 of 1994 PA 451, MCL 324.3101 et seq.

(u) "Watershed" means a topographic area of the land that drains to a common point, such as a lake, pond, river, or stream.

(v) "Watershed management plan" means a water resource plan that sets forth management strategies for improving or protecting water quality or achieving water quality standards and designated uses in a watershed.

History: 1999 MR 10, Eff. Oct. 28, 1999.

R 324.8803 Nonpoint source pollution prevention and control grants.

Rule 3. The director may award grants and enter into project contracts for either or both of the following purposes:

(a) To implement the physical improvement portion of an approved watershed management plan.

(b) To reduce nonpoint source pollution from sources as identified by the department.

History: 1999 MR 10, Eff. Oct. 28, 1999.

R 324.8804 Application.

Rule 4. (1) The department shall seek applications for grants from local units of government and not-for-profit entities using a request for proposals. The request for proposals shall include all of the following information:

(a) The types of proposals being solicited.

(b) The application due date.

(c) Instructions and forms needed by the applicant.

(2) An applicant shall submit a grant application to the department in the format prescribed by the department and on forms provided by the department.

(3) A grant application shall include all of the following:

(a) Information about the applicant, including all of the following:

(i) The applicant's name, address, telephone number, and other pertinent information.

(ii) The qualifications of the applicant's key project staff.

(iii) A statement from a certified public accountant as to when an audit was last conducted, the scope and date of the audit, and a general statement as to the results of the audit.

(b) A description of the project, including, but not limited to all of the following information:

(i) The nature of the water quality concern to be addressed.

(ii) The project goals and objectives.

(iii) For projects implementing the physical improvement portion of an approved watershed management plan, a statement identifying the associated approved watershed management plan, a statement verifying that the plan is current, and a description of how the project is consistent with the tasks in R 324.8810(2)(g).

(c) Identification of the partners participating in the project and their roles.

(d) A work plan that identifies the tasks to be completed and the group or agency responsible for completing each task.

(e) A description of the measures the grantee has taken to identify potential land use conflicts with the proposed project.

(f) A timetable of significant milestones and deliverables.

(g) Steps to be taken to assure the long-term sustainability of the project, including both of the following:

(i) Steps to institutionalize the practices implemented in the project.

(ii) Commitments by appropriate partners to maintain the practices and the period of time over which the commitments are applicable.

(h) Budget information, including anticipated expenditures, local match and the sources of match, and the amount of the grant being applied for.

(i) An 8½-inch by 11-inch project location map.

(j) A statement that the proposed project is in compliance with all applicable state laws and rules or will result in compliance with state laws and rules.

(k) An evaluation component that describes how success in achieving the goals and objectives will be determined.

(l) For an application that proposes to implement physical improvements on sites where plans have been developed, an applicant shall submit all of the following information, unless the applicant demonstrates, in writing, that the information does not apply:

(i) Engineered drawings.

(ii) The basis of design.

(iii) A statement indicating the specifications that were used.

(iv) A statement verifying that all applicable permits will be obtained before implementation.

(v) A maintenance plan.

(m) For an application that proposes to implement physical improvements on sites where plans have not been developed, an applicant shall submit both of the following:

(i) An 8½-inch by 11-inch conceptual site plan showing the location of natural features and the proposed best management practices.

(ii) A statement indicating that final plans will be submitted to the department consistent with subrule (1) of this rule prior to construction.

The department shall incorporate the commitment into the project contract.

(4) Plans and specifications submitted under subrule (1) of this rule for the project shall bear 1 or more seals of a registered professional engineer or registered landscape architect or equivalent, as appropriate for the proposed project and approved by the Department.

(5) The department reserves the right to review, request modifications of, approve, or reject a site plan submitted for grant funding.

History: 1999 MR 10, Eff. Oct. 28, 1999.

R 324.8805 Eligible applicants.

Rule 5. (1) Only local units of government and not-for-profit entities are eligible to apply for grants.

(2) An applicant shall demonstrate the capability to carry out the proposed project.

(3) An applicant shall demonstrate that there is an identifiable source of funds for future maintenance and operation of the proposed project, if appropriate.

(4) An applicant shall have undergone a successful financial audit within the 24-month period immediately preceding the application for the grant.

(5) Within the 24-month period immediately preceding the application for the grant, an applicant shall not have demonstrated an inability to either manage a grant or meet the obligations in a project contract with the department.

(6) An applicant shall not have had a grant from any program within the department revoked or terminated within the 24-month period immediately preceding the application for the grant.

(7) An applicant shall submit all information included in the application requirements in R 324.8804 by the deadline identified in the request for proposals. The department shall not accept an application postmarked later than the deadline in the request for proposals. Eligible applicants may submit applications for more than 1 project.

(8) To be eligible for a grant under R 324.8803(a), an applicant shall have an approved watershed management plan. An applicant shall submit a watershed management plan to the department for approval not less than 90 days before the deadline identified in the request for proposals.

History: 1999 MR 10, Eff. Oct. 28, 1999.

R 324.8806 Project selection factors.

Rule 6. In selecting projects for grant award, the department shall consider all of the following factors as they relate to a project:

(a) The anticipated water quality benefits of the project in relation to the costs.

(b) The ability of the applicant and the partners to carry out the project.

(c) A commitment on the part of the applicant to conduct an evaluation of the effectiveness of the project, including a commitment to provide monitoring data or other information that documents improvement in water quality or the reduction of pollutant loads.

(d) The expectation for long-term water quality improvement.

(e) The expectation for long-term protection of high-quality waters.

(f) The consistency of the project with remedial action plans and other regional water quality or watershed management plans approved by the department.

(g) The list of impaired waters under section 303(d) of title III of the federal water pollution control act, 33 U.S.C. §1313.

(h) Commitments for financial and technical assistance from the partners in the project.

(i) Financial and other resource contributions, including in-kind services, by project partners in excess of the contributions required in section 8802(4) of 1994 PA 451, MCL 324.8802(4).

(j) The length of time the applicant has committed to maintain the physical improvements.

(k) Whether the project provides benefits to sources of drinking water.

(l) Letters of support for the proposed project from affected stakeholders and local units of government.

(m) Other information the department considers relevant.

History: 1999 MR 10, Eff. Oct. 28, 1999.

R 324.8807 Reporting and reimbursement.

Rule 7. (1) During the period of the grant, a grantee shall submit status reports to the department at least quarterly. The reports shall include all of the following information:

(a) A narrative description of the progress, including all of the following information:

- (i) The project name, the grantee name, and the reporting period.
- (ii) The value of the match earned during the quarter.
- (iii) The progress made during the reporting period for each task in the work plan.
- (iv) Accomplishments not anticipated in the work plan.
- (v) Products generated during the reporting period, if applicable.
- (vi) Barriers to progress that have caused delays.
- (vii) Activities scheduled for the following reporting period.

(b) A financial status report in a format consistent with the form provided by the department.

(c) A summary of the environmental benefits of the project, including the number of best management practices implemented and pollutant reduction information, if applicable.

(d) Other appropriate information requested by the department.

(2) The department shall reimburse expenditures incurred during the reporting period upon department approval of the status report.

(3) A grantee shall submit a final project report. The final project report shall include both of the following:

(a) A narrative description of the project, including all of the following information:

- (i) The project name and the grantee name.
- (ii) The project goals and objectives.
- (iii) An analysis of the extent to which the project achieved the goals and objectives.

(iv) A description of the environmental benefits of the project, including the best management practices implemented, pollutant reduction information, if applicable, and before and after pictures.

(v) A list of partners in the project and their individual contributions.

(vi) An analysis of which portions of the project were successful, which were not successful, and the barriers to success.

(b) A financial report in a format consistent with the form provided by the department.

(4) The department reserves the right to conduct site inspections to ensure consistency with the approved site plan.

(5) The department may withhold from reimbursement an amount equal to 10% of the grant until the grantee's final project report has been received and approved. If the department does not receive an approvable final project report within 12 months of the end of the project contract, then the grantee is in default of the contract and forfeits any claim to the unpaid balance of the grant. Forfeited funds are available only for commitment to future nonpoint source grants awarded consistent with these rules.

(6) All grants are subject to a postaudit.

(7) The department may revoke a grant made with money from the fund or withhold payment if the recipient fails to comply with the terms and conditions of the grant. If a grant is revoked, then the department may recover all funds awarded.

(8) If a grantee has committed to continuing maintenance of practices as the grantee's match, then the grantee or partner shall submit, in a format prescribed by the department, a report consistent with the maintenance schedule identified in the maintenance plan.

History: 1999 MR 10, Eff. Oct. 28, 1999.

R 324.8808 Schedule of grants.

Rule 8. (1) The department shall issue the request for proposals each fiscal year in which clean Michigan initiative funding is available for grants.

(2) Following project selection, the department and a grantee shall enter into a project contract that establishes the work to be conducted and the commitment of funds.

(3) If a grantee satisfies the match requirement with a commitment to maintain the practices as allowed in R 324.8809, then the grantee shall enter into a separate contract that includes a maintenance plan describing the maintenance activities that will be accomplished and a schedule for each activity.

History: 1999 MR 10, Eff. Oct. 28, 1999.

R 324.8809 Grantee contribution.

Rule 9. (1) Each grantee shall contribute not less than 25% of the project's total cost as match.

(2) The department may accept in-kind services to provide all or a portion of the required match.

(3) The department may accept as the match requirement a commitment, under terms acceptable to the department, that provides for the maintenance of the project or practices funded by the grant.

(a) The commitment shall be in the form of a contract between the grantee or a partner and the department. The department and the grantee shall sign the contract before the end of the grantee's project contract.

(b) The maintenance contract shall require the maintenance of the project or the practices for a minimum of 20 years after completion of the project.

(c) If a grantee fails to comply with the terms of the maintenance contract throughout the contract period, then the department may seek reimbursement of up to 25% of the project cost, plus interest, in an amount that is not more than 0.75% per month. Funds recovered under this rule are available only for commitment to future nonpoint source grants awarded consistent with these rules.

History: 1999 MR 10, Eff. Oct. 28, 1999.

R 324.8810 Approvable watershed management plans.

Rule 10. (1) A local unit of government or a not-for-profit entity may submit a watershed management plan to the department for approval under these rules.

(2) A watershed management plan submitted to the department for approval under this section shall contain current information, be detailed, and identify all of the following:

(a) The geographic scope of the watershed.

(b) The designated uses and desired uses of the watershed.

(c) The water quality threats or impairments in the watershed.

(d) The causes of the impairments or threats, including pollutants.

(e) A clear statement of the water quality improvement or protection goals of the watershed management plan.

(f) The sources of the pollutants causing the impairments or threats and the sources that are critical to control in order to meet water quality standards or other water quality goals.

(g) The tasks that need to be completed to prevent or control the critical sources of pollution or address causes of impairment, including, as appropriate, all of the following:

(i) The best management practices needed.

(ii) Revisions needed or proposed to local zoning ordinances and other land use management tools.

(iii) Informational and educational activities.

(iv) Activities needed to institutionalize watershed protection.

(h) The estimated cost of implementing the best management practices needed.

(i) A summary of the public participation process, including the opportunity for public comment, during watershed management plan development and the partners that were involved in the development of the watershed management plan.

(j) The estimated periods of time needed to complete each task and the proposed sequence of task completion.

(k) A description of the process that will be used to evaluate the effectiveness of implementing the plan and achieving its goals.

(3) The department shall accept and review watershed management plans submitted for approval under this rule at any time throughout the year.

(4) The department reserves 90 days to review and comment on watershed management plans submitted for approval.

History: 1999 MR 10, Eff. Oct. 28, 1999.