

## CHAPTER 392—H.F.No. 887

*An act relating to environment; creating the clean water partnership program for the control of nonpoint source water pollution and providing for administration by the pollution control agency; requiring a state water quality assessment; authorizing technical and financial assistance to local governments; authorizing rulemaking; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 115.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[115.091] CITATION.**

Sections 1 to 12 may be cited as the "Minnesota clean water partnership act."

Sec. 2. **[115.092] PURPOSE.**

(a) It is the purpose of the legislature in enacting the Minnesota clean water partnership act to protect and improve surface and ground water in Minnesota, through financial and technical assistance to local units of government to control water pollution associated with land use and land management activities.

(b) It is also the purpose of the legislature to:

(1) identify water quality problems and their causes;

(2) direct technical and financial resources to resolve water quality problems and to abate their causes;

(3) provide technical and financial resources to local units of government for implementation of water quality protection and improvement projects;

(4) coordinate a nonpoint source pollution control program with elements of the existing state water quality program and other existing resource management programs; and

(5) provide a legal basis for state implementation of federal laws controlling nonpoint source water pollution.

Sec. 3. **[115.093] DEFINITIONS.**

Subdivision 1. APPLICABILITY. The definitions in this section apply to sections 1 to 12.

Subd. 2. AGENCY. "Agency" means the pollution control agency.

Subd. 3. BEST MANAGEMENT PRACTICES. "Best management practices" means practices, techniques, and measures, that prevent or reduce water pollution from nonpoint sources by using the most effective and practicable means of achieving water quality goals. Best management practices include, but are not limited to, official controls, structural and nonstructural controls, and operation and maintenance procedures.

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**Subd. 4. DIRECTOR.** "Director" means the director of the pollution control agency.

**Subd. 5. LOCAL UNIT OF GOVERNMENT.** "Local unit of government" means a statutory or home rule charter city, town, county, soil and water conservation district, watershed district, an organization formed for the joint exercise of powers under section 471.59, and any other special purpose district or authority exercising authority in water and related land resources management at the local level.

**Subd. 6. NONPOINT SOURCE.** "Nonpoint source" is a land management activity or land use activity that contributes or may contribute to ground and surface water pollution as a result of runoff, seepage, or percolation and that is not defined as a point source in section 115.01, subdivision 15. Nonpoint sources include, but are not limited to rural and urban land management activities and land use activities and specialty land use activities such as transportation.

**Subd. 7. OFFICIAL CONTROLS.** "Official controls" means ordinances and regulations that control the physical development of the whole or part of a local government unit or that implement the general objectives of the local government unit.

**Subd. 8. PROJECT.** "Project" means the diagnostic study of water pollution caused by nonpoint sources of water pollution, a plan to implement best management practices, and the physical features constructed or actions taken by a local unit of government to implement best management practices.

**Subd. 9. WATER POLLUTION.** "Water pollution" means water pollution as defined in section 115.01, subdivision 5.

**Subd. 10. WATERS OF THE STATE.** "Waters of the state" means waters as defined in section 115.01, subdivision 9.

**Sec. 4. [115.094] CLEAN WATER PARTNERSHIP PROGRAM ESTABLISHED.**

A clean water partnership program is established as provided in sections 1 to 12. The agency shall administer the program in accordance with those sections. As a basis for the program, the agency and the metropolitan council shall conduct an assessment of waters in accordance with section 5. The agency shall then provide financial and technical assistance in accordance with section 6 to local units of government for projects in geographical areas that contribute to surface or ground water flows. The projects shall provide for protection and improvement of surface and ground water from nonpoint sources of water pollution.

**Sec. 5. [115.095] STATEWIDE RESOURCE ASSESSMENT.**

The agency shall conduct an assessment of waters of the state that have

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been polluted by nonpoint sources and of geographical areas with waters of the state that have a high potential for water pollution caused by nonpoint sources. The metropolitan council shall conduct the assessment in the metropolitan area, as defined in section 473.121, subdivision 2, in cooperation with the agency. The assessment shall be completed by July 1, 1988.

**Sec. 6. [115.096] FINANCIAL AND TECHNICAL ASSISTANCE; ELIGIBILITY.**

Subdivision 1. FINANCIAL ASSISTANCE. The agency may award grants for up to 50 percent of the eligible cost for (1) the development of a diagnostic study and implementation plan, and (2) the implementation of that plan. The agency shall determine which costs are eligible costs and grants shall be made and used only for eligible costs.

Subd. 2. TECHNICAL ASSISTANCE. The agency may provide technical assistance to local units of government in order to ensure efficient and effective development and implementation of projects and coordination of projects with other water management activities.

**Sec. 7. [115.097] ELIGIBILITY FOR ASSISTANCE.**

Subdivision 1. GENERALLY. To be eligible for the financial or technical assistance or both as provided in section 6, a local unit of government applying for assistance must (1) have authority to coordinate and enter into contracts with local, state, and federal agencies and private organizations, raise funds, and adopt and enforce official controls; and (2) provide the agency with those documents required in subdivision 2.

Subd. 2. DOCUMENTS REQUIRED. (a) An applicant for assistance shall submit the following to the agency:

(1) an application form as prescribed by the agency;

(2) evidence that the applicant has consulted with the local soil and water conservation districts and watershed districts, where they exist, in preparing the application; and

(3) one of the following documents:

(i) the comprehensive water plan authorized under chapter 110B;

(ii) a surface water management plan required under section 473.878;

(iii) an overall plan required under chapter 112; or

(iv) any other local plan that provides an inventory of existing physical and hydrologic information on the area, a general identification of water quality problems and goals, and that demonstrates a local commitment to water quality protection or improvement. After July 1, 1991, only projects that are a part of, or are responsive to, a local water plan under chapters 110B, 112, or sections 473.875 to 473.883 will be eligible under this clause.

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(b) The document submitted in compliance with paragraph (a), clause (2) must identify existing and potential nonpoint source water pollution problems and must recognize the need and demonstrate the applicant's commitment to abate or prevent water pollution from nonpoint sources in the geographic areas for which the application is submitted.

**Sec. 8. [115.098] AGENCY REVIEW OF APPLICATIONS; RANKING OF PROJECTS.**

The agency shall rank applications for technical and financial assistance in order of priority and shall, within the limits of available appropriations, grant those applications having the highest priority. The agency shall by rule adopt appropriate criteria to determine the priority of projects.

The criteria shall give the highest priority to projects that best demonstrate compliance with the following objectives:

(a) The project demonstrates participation, coordination, and cooperation between local units of government and other public agencies, including soil and water conservation districts or watershed districts, or both those districts.

(b) The degree of water quality improvement or protection is maximized relative to the cost of implementing the best management practices.

(c) Best management practices provide a feasible means to abate or prevent nonpoint source water pollution.

(d) The project goals and objectives are consistent with the state water quality management plans, the statewide resource assessment conducted under section 5, and other applicable state and local resource management programs.

**Sec. 9. [115.099] PLAN IMPLEMENTATION.**

Subdivision 1. IMPLEMENTATION ACCORDING TO LAW AND CONTRACT. A local unit of government receiving technical or financial assistance or both from the agency shall carry out the implementation plan approved by the agency according to the terms of that plan, any contract or grant agreement made with the agency and according to sections 1 to 12, the rules of the agency, and applicable federal requirements.

Subd. 2. REVIEW BY AGENCY. The director or the director's designee may, at any reasonable time, inspect any project and review the expenditure of financial assistance funds granted by the agency in order to determine whether the local unit of government has complied with subdivision 1.

Subd. 3. ENFORCEMENT OF AGREEMENTS. The agency may bring a civil action in district court to recover from a local governmental unit any financial assistance funds used in violation of subdivision 1.

**Sec. 10. [115.10] RULES.**

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The agency shall adopt permanent rules necessary to implement sections 1 to 12. The rules shall contain at a minimum:

(1) procedures to be followed by local units of government in applying for technical or financial assistance or both;

(2) conditions for the administration of assistance;

(3) procedures for the development, evaluation, and implementation of best management practices;

(4) requirements for a diagnostic study and implementation plan;

(5) criteria for the evaluation and approval of a diagnostic study and implementation plan;

(6) criteria for the evaluation of best management practices;

(7) criteria for the ranking of projects in order of priority for assistance;

(8) criteria for defining and evaluating eligible costs and cost-sharing by local units of government applying for assistance; and

(9) other matters as the agency and the director find necessary for the proper administration of sections 1 to 12, including any rules determined by the director to be necessary for the implementation of federal programs to control nonpoint source water pollution.

#### **Sec. 11. [115.101] NONPOINT SOURCE POLLUTION CONTROL PLAN AND PROGRAM EVALUATION.**

For the purpose of coordinating the programs and activities used to control nonpoint sources of pollution to achieve Minnesota's water quality goals, the agency shall:

(1) develop a state plan for the control of nonpoint source water pollution in order to meet the requirements of the federal Clean Water Act;

(2) work through the environmental quality board to coordinate the activities and programs of federal, state, and local agencies involved in nonpoint source pollution control and, where appropriate, develop agreements with federal and state agencies to accomplish the purposes and objectives of the state nonpoint source pollution control plan; and

(3) evaluate the effectiveness of programs in achieving water quality goals and recommend to the legislature, under section 3.195, subdivision 1, any necessary amendments to sections 1 to 12.

#### **Sec. 12. [115.102] INTEGRATION OF DATA.**

The data collected for the activities of the clean water partnership program that have common value for natural resource planning must be provided and

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integrated into the Minnesota land management information system's geographic and summary data bases according to published data compatibility guidelines. Costs associated with this data delivery must be borne by this activity.

### Sec. 13. **[115.103] PUBLIC AGENCY COORDINATION.**

Subdivision 1. PROJECT COORDINATION TEAM; MEMBERSHIP. The director shall establish and chair a project coordination team made up of representatives of the pollution control agency, department of natural resources, soil and water conservation board, department of agriculture, department of health, state planning agency, Minnesota extension service, University of Minnesota agricultural experiment stations, United States Army Corps of Engineers, United States Environmental Protection Agency, United States Department of Agriculture Agricultural Stabilization and Conservation Service, United States Department of Agriculture Soil Conservation Service, water resources board, metropolitan council, Association of Minnesota Counties, League of Minnesota Cities, Minnesota Association of Townships, and other agencies as the director may determine.

Subd. 2. DUTIES. The project coordination team shall advise the agency in preparation of rules, evaluate projects, and recommend to the director those projects that the team believes should receive financial or technical assistance or both from the agency. After approval of assistance for a project by the agency, the team shall review project activities and assist in the coordination of the state program with other state and federal resource management programs.

### Sec. 14. **APPROPRIATION AND COMPLEMENT.**

Subdivision 1. The following amounts are appropriated from the water pollution control fund to the pollution control agency:

	<u>1988</u>	<u>1989</u>
<u>(a) For administration and contractual services</u>	<u>\$299,500</u>	<u>\$348,000</u>

(b) \$1,352,500 for grants to local units of government under section 5. This amount is available until expended.

Subd. 2. The complement of the pollution control agency is increased by four positions.

Approved June 3, 1987

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