



State Water Commission Approves Policy

UPDATES

In April 2017, the 65th North Dakota Legislative Assembly directed the State Water Commission (SWC or Commission) to revisit two important documents, each having influence on water development across the state. House Bill 1374 amended North Dakota Century Code (NDCC) § 61-02-01.4, stating that the “The State Water Commission shall review, gather stakeholder input on, and rewrite as necessary the commission’s ‘Cost-Share Policy, Procedure and General Requirements’ and ‘Project Prioritization Guidance’ documents.”

Since then, agency staff have been working with the Commission to fulfill the intent of House Bill 1374. The SWC requested that public comments on the two documents be submitted by April 2018. Public comments were received and discussed with the Commission as a whole, and also via Commission subcommittees. Several of the changes were approved at the June and August Commission meetings. Additional changes to the Cost-Share Policy are still under review, while modifications to the Project Prioritization Guidance have been approved in full by the Commission.



Water Project Prioritization Guidance Modifications

SWC staff worked with Commission members to update and clarify language in the Prioritization Guidance, which can be found on the State Water Commission's website. Of note, the following language was added to the Guidance: "In the interest of strategically investing in the state's highest water development priorities, the Water Commission will give funding preference to projects designated as higher priorities for the first 12 months of each budget cycle."

In other notable changes, the Commission:

- Removed reference to the population growth factor that gave higher priority to service areas or cities that had a three-year average population growth of greater than 3%. The new language offers more flexibility, referencing "rapid population growth."
- Included language throughout the Guidance that directly mirrors that used in the cost-share policy to maintain consistency.
- Differentiated between new rural flood control projects, and improvements or extraordinary maintenance to existing systems.
- Added "extraordinary maintenance" related to water supply and rural flood control within the "Low Priority Projects" section.

Please note: Changes made to the Cost-Share Policy become effective immediately after passage by the Commission, while changes to the Water Project Prioritization Guidance will be applied to those projects seeking funding after July 1, 2019.



Notable Approved Cost-Share Policy Changes

- Local sponsors requesting cost-share are now required to present their project at Commission meetings.
- Ongoing projects must now provide progress reports to the SWC every four years.
- "Rural Flood Control" and "Bank Stabilization" are now sub-categories of "Water Conveyance," as directed by statute.
- Under the Flood Protection Program, cost-share applications must include the return interval or design flow for the level of protection. Assistance will be based on protection against:
 - The 100-year event as determined by the federal Government;
 - The NED alternative; or
 - The local sponsor's preferred alternative.
- Cost-share applications for drain reconstructions now require a sediment analysis.
- An addition was made under Irrigation to clarify that the SWC will not enter into a cost-share agreement with individual producers.
- The threshold for requiring an engineering selection process was raised from anticipated cost-share of \$25,000 to the threshold provided in NDCC § 54-44-7, which currently sets the threshold at \$35,000.
- Pre-construction engineering costs, eligible for 35% cost-share in the past, are now eligible at the same cost-share percentage as the resulting construction work.
- Language was added to further clarify that storm water management is not an eligible cost-share item.
- A simplified process for differentiating water supply project cost-share percentages remains under review.