

CHAPTER 8400

BOARD OF WATER AND SOIL RESOURCES

LAND AND WATER TREATMENT PROGRAM

8400.0050 PURPOSE.

EROSION CONTROL AND WATER MANAGEMENT PROGRAM

8400.____ AUTHORITY.

8400.0100 DEFINITIONS.

STATE BOARD FUNCTIONS

8400.xxxx PROGRAM POLICY

8400.0300 APPROVED CONSERVATION PRACTICES.

8400.xxxx MINIMUM COST-SHARE AMOUNTS.

8400.0500 MAXIMUM COST-SHARE RATES.

8400.xxxx RECORDING CONSERVATION PRACTICES.

8400.0600 STATE BOARD ALLOCATION OF FUNDS TO CONSERVATION DISTRICTS.

DISTRICT FUNCTIONS

8400.0900 CONSERVATION DISTRICT ADMINISTRATION OF PROGRAM FUNDS.

8400.1650 RECORDING CONSERVATION PRACTICES.

8400.1700 MAINTENANCE.

8400.1750 PRACTICE SITE INSPECTIONS.

8400.1800 APPEALS.

8400.1900 REPORTS TO STATE BOARD.

8400.0050 PURPOSE.

The land and water treatment program is administered through local conservation districts to provide financial and technical assistance to land occupiers for the application of conservation practices that reduce erosion, control sedimentation, improve and protect water quality, or address water quantity problems due to altered hydrology to ensure the sustainable use of Minnesota's natural resources.

Statutory Authority: *MS s 103C.501*

History: *20 SR 2185*

Posted: *October 4, 2001*

EROSION CONTROL AND WATER MANAGEMENT PROGRAM

8400.0200 AUTHORITY.

Minnesota Statutes, section 103C.501, authorizes the state board, in cooperation with the conservation districts, to administer a program of cost-sharing with land occupiers for the installation of soil and water conservation practices. Parts 8400.0050 to 8400.1900 provide procedures and criteria to be followed by the state board in allocating cost-sharing funds to conservation districts, and standards and guidelines that the conservation district boards shall use in allocating funds to land occupiers.

Statutory Authority: *MS s 40.036; 103C.501*

History: *9 SR 2439; L 1987 c 358 s 34; 20 SR 2185*

Posted: *October 4, 2001*

8400.0100 DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 8400.0050 to 8400.18001900, the definitions in this part, in addition to those in Minnesota Statutes, chapter 103C, apply.

Subp. 3. **Annual work plan.** "Annual work plan" means a plan prepared by the conservation district pursuant to Minnesota Statutes, section 103C.331, subdivision 11, paragraph (e), and according to the most recent policy Plans published by the state board.

Subp. 5a. **Comprehensive local water plan.** "Comprehensive local water plan" means a local water plan authorized under Minnesota Statutes, section 103B.311; a watershed overall plan required under Minnesota Statutes, section 103D.401; a watershed management plan required under Minnesota Statutes, section 103B.231; or a county groundwater plan authorized under Minnesota Statutes, section 103B.255.

Subp. 8. **Comprehensive plan.** "Comprehensive plan" means a long-range plan adopted by the conservation district pursuant to Minnesota Statutes, section 103C.331, subdivision 11, and according to the most recent policy published by the state board.

Subp. 9. **Conservation district.** "Conservation district" means a soil and water conservation district organized under Minnesota Statutes, chapter 103C.

Subp. 10. **Conservation district board.** "Conservation district board" means the board of supervisors of a soil and water conservation district as organized under Minnesota Statutes, chapter 103C.

Subp. 10b. **Conservation practices.** "Conservation practices" means practices applied to the land for the purpose of controlling or preventing soil erosion, sedimentation, nutrient runoff, or other water pollution to maintain the sustainable use of soil and water and other natural resources.

Subp. 14. **Effective life.** "Effective life" means the time span for which a conservation practice effectively fulfills its intended purpose.

Subp. 18. **Land occupier.** "Land occupier" means a person, corporation, or legal entity that holds title to or is in possession of land within a conservation district as an owner, lessee, tenant, or otherwise.

Subp. 23. **State board.** "State board" means the state Board of Water and Soil Resources created in Minnesota Statutes, section 103B.101.

History: 9 SR 2439; L 1987 c 358 s 34; 20 SR 2185

Posted: October 4, 2001

STATE BOARD FUNCTIONS

8400.xxxx PROGRAM POLICY.

The State board shall adopt policies providing for administration and implementation.

8400.0300 APPROVED CONSERVATION PRACTICES.

Subp. 2. **Criteria for approved conservation practices.** Practices eligible for cost-share funds must meet the criteria in items A to D.

A. The objectives of these approved conservation practices may include, but are not limited to, activities that:

- (1.) control nutrient runoff;
- (2.) control sedimentation;

- (3.) divert runoff to protect and improve water quality;
- (4.) reduce wind erosion;
- (5.) control gully, rill, or sheet erosion;
- (6.) protect shoreland from erosion;
- (7.) control stormwater runoff;
- (8.) protect or improve surface water and groundwater quality;
- (9.) provide energy conservation and snow protection; or
- (10.) alleviate water quantity problems due to altered hydrology.

C. No cost-share funds shall be furnished for conservation practices designed primarily ~~only~~ to increase land productivity.

D. All conservation practices must be consistent with the conservation district's comprehensive plan.

Statutory Authority: *MS s 40.036; 103C.501; L 1999 c 231 s 203*

History: *9 SR 2439; 20 SR 2185; 24 SR 1240*

Posted: *October 4, 2001*

8400.0500 MAXIMUM COST-SHARE RATES.

The maximum cost-share rates established by the state board represent the maximum percent of the total cost of a conservation practice that may be funded by state cost-share funds.

Statutory Authority: *MS s 40.036*

Posted: *October 4, 2001*

8400.xxxx RECORDING CONSERVATION PRACTICES

The state board may determine that long-term maintenance of a conservation practice is desirable and may require that maintenance be made a covenant upon the land for the effective life of the practice. A covenant under this subdivision shall be construed in the same manner as a conservation restriction under 84.65.

8400.0600 STATE BOARD ALLOCATION OF FUNDS TO CONSERVATION DISTRICTS.

Subp. 4. **Grants to conservation districts.** The state board may allocate cost-share funds to conservation district boards that have fully complied with Minnesota Statutes, section 103C.501, subdivision 3; all erosion control and water management program rules; and program policies. At least 70 percent of the cost-sharing funds available statewide will be allocated to conservation districts in the form of grants for conservation practices addressing high priority erosion, sedimentation, or water quality problems. The remaining cost-share funds may be allocated by the board to conservation districts for conservation practices for lower priority erosion, sedimentation, or water quality problems and for technical and administrative assistance or to carry out special projects or programs, except not more than 20 percent of the total funds may be allocated for technical and administrative services.

Subp. 5. **Other funds.** Other funds received by the state board may be allocated to conservation districts for the treatment of erosion, sedimentation, water quality problems, or water quantity problems due to altered hydrology. These additional funds may be incorporated with existing erosion control and water management program funds and their use may be governed by the program policy or may be subject to other policies or guidelines required to fully implement the intent for which these additional funds were appropriated.

Statutory Authority: *MS s 40.036; 103C.501*

History: *9 SR 2439; 20 SR 2185*

Posted: *October 4, 2001*

DISTRICT FUNCTIONS

8400.0900 CONSERVATION DISTRICT ADMINISTRATION OF PROGRAM FUNDS.

Subpart 1. **General.** Following receipt of grant funds from the state board, a conservation district is responsible for administration of the funds in accordance with Minnesota Statutes, chapter 103C, parts 8400.0050 to 8400.1900, program policies, and all other applicable laws. All funds allocated to conservation districts must be used for the purposes designated by the state board.

Subp. 2. **Maximum cost-share rate.** Prior to considering any applications from land occupiers for cost-share assistance, the conservation district board shall establish cost-share rates for conservation practices to be installed under the program, up to the maximum rates established by the state board.

Subp. 3. **Criteria for conservation district board review.** The conservation district board shall use the following factors in review of practice eligibility:

A. The application must be signed by the land occupier and the landowner, if different, indicating their agreement to:

(1) grant the soil and water conservation district's representatives access to the parcel where the conservation practice will be located;

(2) obtain all permits required in conjunction with the installation and establishment of the practice prior to starting construction of the practice; and

(3) be responsible for operation and maintenance of conservation practices applied under this program according to an operation and maintenance plan prepared by the conservation district technical representative.

B. Costs to repair damage to conservation practices installed with state cost-share dollars are eligible if the damage was caused by reasons beyond the control of the land occupier.

C. If the practice has fully met or exceeded its designed effective life, the cost to reconstruct the practice is eligible for cost-share assistance.

D. Conservation practices where construction has begun prior to conservation district approval are ineligible for financial assistance. The Board may waive this requirement for emergency needs.

Subp. 4. **Entering into a contract.** After completion of the conservation district board review of practice eligibility, the conservation district board shall either approve or deny the application.

Statutory Authority: *MS s 40.036; 103C.501*

History: *9 SR 2439; 20 SR 2185*

Posted: *October 4, 2001*

8400.1650 RECORDING CONSERVATION PRACTICES.

When a district board determines that long-term maintenance of a conservation practice is desirable, the board may require that maintenance be made a covenant upon the land for the effective life of the conservation

practice. A covenant under this subdivision shall be construed in the same manner as a conservation restriction under 84.65.

Statutory Authority: *MS s 103C.501*

History: *20 SR 2185*

Posted: *October 4, 2001*

8400.1700 MAINTENANCE.

Subpart 1. **Land occupier maintenance responsibilities.** The land occupier is responsible for operation and maintenance of conservation practices applied under this program to ensure that their conservation objective is met and the effective life is achieved. Should the land occupier fail to maintain the conservation practices during their effective life, the land occupier is liable to the state of Minnesota for up to one-hundred-fifty percent of financial assistance received to install and establish the conservation practice. The land occupier is not liable for cost-share assistance received if the failure was caused by reasons beyond the land occupier's control, or if conservation practices are applied at the land occupier's expense which provide equivalent protection of the soil and water resources.

Subp. 2. **Reapplication or removal of conservation practices.** In no case shall a conservation district provide cost-share assistance to a land occupier for the reapplication of conservation practices which were removed by the land occupier during their effective life or that failed due to improper maintenance.

Statutory Authority: *MS s 40.036; 103C.501*

History: *9 SR 2439; 20 SR 2185*

Posted: *October 4, 2001*

8400.1750 PRACTICE SITE INSPECTIONS.

The conservation districts shall conduct site inspections of conservation practices installed with cost-share funds to determine if the land occupier is in compliance with the operation and maintenance requirements under part 8400.1700 and the policy, guidelines, and requirements of the state board.

Statutory Authority: *MS s 103C.501*

History: *20 SR 2185*

Posted: *October 4, 2001*

8400.1800 APPEALS.

Land occupiers may appeal a conservation district's action within 60 days of receiving notice of the action by submitting a written request to the conservation district board asking the board to reconsider its decision. Should the land occupier and the conservation district board reach an impasse, the land occupier may appeal the conservation district board's decision to the state board within 60 days of receiving notice of the district board's final decision. If an informal hearing is granted, the state board or its appointed mediator shall hear all testimony offered, and shall accept written testimony for ten days after the hearing. The mediator, if one is used, shall report the findings and recommendation to the state board. The state board shall make its decision on the appeal within 60 days of the hearing date or 60 days after receiving the mediator's report, upholding, reversing, or amending the decision of the conservation district board.

Statutory Authority: *MS s 40.036; 103C.501*

History: *9 SR 2439; 17 SR 1279; 20 SR 2185*

Posted: *October 4, 2001*

8400.1900 REPORTS TO STATE BOARD.

For the purpose of reporting and monitoring the progress of the program and use of funds, each conservation district shall submit an annual report of the year's accomplishments according to the guidelines and requirements established by the state board.

Statutory Authority: *MS s 40.036*

Posted: *October 4, 2001*

DRAFT