

## Erosion Control and Water Management Program Policy

*From the Board of Water and Soil Resources, State of Minnesota*

**Version:** 2.00

**Effective Date:** 6/26/2019

**Approval:** Board Resolution #19-27

### Policy Statement

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The Erosion Control and Water Management Program, commonly known as the State Cost Share Program, was created through Minnesota Statutes, §103C.501 to provide funds to Soil and Water Conservation Districts (Districts) to share the cost, with the land occupier, of conservation practices for high priority erosion, sedimentation, or water quality problems, or water quantity problems due to altered hydrology. The purpose of this policy is to provide specific requirements for the implementation of funds appropriated to BWSR associated with the Erosion Control and Water Management Program.

Funds are allocated by BWSR based on the following minimum criteria to districts that have fully complied with all program rules and policies:

- Extent of high priority erosion or water quality problems in the district, as indicated in the district comprehensive and annual plans or their equivalent.
- Priorities for the control of soil erosion or water quality problems as established by BWSR.
- Historic success of the district in applying conservation practices.
- Ability of the district to expend the funds in a timely manner.
- Legislative appropriation.

BWSR will allocate the cost-sharing funds available to districts in the form of grants for conservation practices addressing high priority erosion, sedimentation, or water quality problems.

## Erosion Control and Water Management (State Cost Share Program)

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District boards and staff are responsible for the administration and decisions concerning the local use of these funds in accordance with: Minnesota Statutes, section 103C.501; Minnesota Administrative Rules, part 8400.0060 through 8400.1900; BWSR policies; the grant agreement; and all other applicable laws. BWSR will use grant agreements as contracts for assurance of deliverables and compliance. Failure to comply with relevant statutes, rules, and policies may lead to imposition of financial penalties on the grant recipient.

**The BWSR Grants Administration Manual provides the primary framework for local management of these funds.**

### 1.0 Eligible and Ineligible Activities

The primary purpose of activities funded with Erosion Control and Water Management funds is to assist with structural, vegetative, or nonstructural land management practices to correct existing problems. Specific preventative practices may also be allowed through policy or appropriation. Vegetative practices include establishment of permanent vegetation through practices such as but not limited to: critical area planting and filter strips. Nonstructural land management practices include conservation management practices such as but not limited to: cover crops, residue management, and nutrient management that are incorporated into a farm management plan and have erosion control or water quality improvement benefits. Pre-Construction Cover is allowed when temporary cover is necessary for the future installation of structural conservation practices.

- 1.1 Practice Standards.** All practices must be consistent with the NRCS Field Office Technical Guide (FOTG) or professionally accepted engineering or ecological practices. Design standards for all practices must include specifications for operation and maintenance for the life of the given practice, including an inspection schedule and procedure. Practices where runoff or sediment from the contributing watershed prevents the practice from achieving the intended purpose with normal operation and maintenance are ineligible. Unless otherwise directed by statute or rule, vegetative practices must follow the BWSR Board adopted [Native Vegetation Establishment and Enhancement Guidelines](#).
- 1.2 Effective Life.** All structural and vegetative practices must be designed and maintained for a minimum effective life of ten years. The beginning date for a practice's effective life is the same date final payment is approved and the project is considered complete. The effective life of non-structural land management practices will be based on the district's BWSR approved Implementation Plan, as per Section 3.2.2. Rehabilitation of structural and vegetative practices beyond their designed effective life are eligible for this program.
- 1.3 Repair of Damaged Practices.** Using Erosion Control and Water Management funds to repair damage to a conservation practice is eligible if the practice was installed using approved standards, damage was caused by reasons beyond the control of the land occupier, and damage or failure of the practice was not due to improper maintenance or removal of the practice within the effective life.
- 1.4 Practices that Address Water Quantity Problems Due to Altered Hydrology.** The primary purposes of these types of practices is to apply conservation practices on drainage or conveyance systems to

(a) improve water quality, and (b) reduce surface and/or subsurface peak flows and volumes that contribute to water quality problems. Practices that do not have water quality as a primary purpose are ineligible.

**1.5 Ineligible Practices.** Incentive payments for ongoing maintenance, writing of conservation plans, payments to adopt land management practices such as tillage or residue management unless approved as per Section 3.2.2, payments for crop damage during construction, payments to repair or install septic systems, payments for easements, stormwater conveyances that collect and move runoff but do not provide water quality benefit, practices installed for energy conservation and snow protection, and/or feedlot expansions are not allowable practices with these funds. See also Section 1.4.

**1.6 Project and Practice Assurances.** The grantee has the responsibility to ensure that the installed conservation practices and projects meet the purposes of the grant program, will remain in place for the lifespan expected, and will provide the benefits for which they were designed as per the Project and Practice Assurance Section of the Grants Administration Manual.

## 2.0 Technical and Administrative Components

Erosion Control and Water Management funds may be used for technical and administrative expenses.

**2.1 Technical Quality Assurance.** The grantee has the responsibility to ensure that the designated technical staff have the appropriate technical expertise, skills and training for their assigned role(s) as per the Technical Quality Assurances section of the Grants Administration Manual.

**2.2 Technical and Administrative Expense.** Up to twenty percent (20%) of the total grant may be used for technical and administrative expenses. Amounts used must be documented as an actual expense. Remaining funds must be provided as cost share to achieve the purpose of these funds, unless otherwise indicated in specific appropriation language. Districts may use more than 20% of the grant for technical and administrative expenses if a request for such use is recommended by the Board Conservationist and approved by the BWSR Regional Manager, based on the following:

- a) Other non-state funds, will be leveraged and the district couldn't do the project otherwise; or
- b) Funds are used on a project that is Erosion Control and Water Management Program or Environmental Quality Incentives Program (EQIP) eligible AND the district's most recent Financial Report indicates less than an 18-month fund balance; or
- c) Funds were granted for the Cooperative Weed Management Areas (CWMA) Program, as approved in the CWMA work plan.

**2.3 Technical and Administrative Activities.** Activities eligible include the following: grant administration, staff training to acquire or maintain appropriate technical approval authorities or other applicable technical certifications which can include licenses, site investigations and assessments, design and cost estimates, construction oversight, and inspections.

### 3.0 Financial Assistance to Land Occupiers

Financial assistance can be calculated by either a) the percent of the installation cost of a practice that may be provided to a land occupier for materials and labor necessary to install the practice as per Section 3.1 or b) a flat rate for buffers, non-structural land management practices and pre-construction cover. As per Section 3.2 flat rates serve as an alternative to actual costs documented by receipts or invoices.

**3.1 Maximum percent based on receipts or invoices.** The maximum cost share rate utilizing state funds for installation of a practice is seventy-five percent (75%) of the installation cost, except for unused well sealing which is established at fifty percent (50%). State and non-state funds combined may not exceed 100%.

**3.1.1 Non-state contributions.** A land occupier may provide the remainder of the local share of the implementation cost through in-kind services, or non-state funds. The district board shall determine whether charges for in-kind services and materials are practical and reasonable. Standard rates for in-kind services should be identified in the district's cost share program policy.

**3.1.2 Local Rates.** Prior to receiving any applications from land occupiers, district boards may set different cost share rates up to the maximum identified in BWSR policy. These rates should be identified in the District's cost share program policy.

## OR

**3.2 Flat Rates.** Flat rates may be used as an alternative to actual costs documented by receipts or invoices. When using flat rates a land occupier cannot accept any other state or federal funds for that practice.

**3.2.1 Buffers.** For buffers based on water quality improvements with a maximum width of 120 feet, the flat rate may be up to \$300 per acre to establish the vegetation. A cropping history, defined as in agricultural crop production for at least two of the last five years, is required. Species selection and acceptable seed source requirements must follow BWSR's Native Vegetation Establishment and Enhancement Guidelines. Native shrub plantings (amongst native grasses and flowers) for wildlife, fruit or nut production is allowed. Allowable activities after establishment include haying, seed propagation, bio-energy production, and prescribed burning; if these occur outside of the nesting season of May 15 to August 1 and are included in the operation and maintenance plan. Alternative dates can be approved by the SWCD on a case-by-case basis for weed control, tree and scrub management or emergency repairs. Grazing after successful establishment is allowed with an approved grazing management plan (e.g. Prescribed Grazing practice standard 528).

**3.2.2 Nonstructural Land Management Practices** are allowed when they are part of 1) a planned erosion control or water quality improvement plan; 2) when the district has submitted an Implementation Plan to BWSR and after Board Conservationist approval of the Implementation Plan; and 3) the district has incorporated the approved Implementation Plan into their locally adopted cost share program policy for that fiscal year. Land occupiers who are already

incorporating the requested nonstructural land management practice in their farming operation are not eligible.

**3.2.3 Pre-Construction Cover** is allowed when temporary cover is necessary for the future installation of structural conservation practices. A flat rate payment of up to \$150 per acre, not to exceed 10 acres, is allowed as part of a state cost-share contract for the installation of structural practice(s). Eligible acres are defined as; 1) The area needed to provide access to the location of the structural practice to be installed. 2) The area to be impacted during installation, this includes the actual location of the practice as well as any surrounding areas that will have disturbance during construction. The temporary cover is to remain in place until construction begins. A land occupier is only eligible to receive this payment once per cost-share contract, unless construction is delayed another year for reasons beyond the control of the land occupier. Refer to the Agricultural BMPs section of [BWSR's Native Vegetation Establishment and Enhancement Guidelines](#) for recommended species, seeding rates, and seeding dates.

**3.3 Cooperative Weed Management Program (CWMA).** A non-state local share equal to at least 25% of the amount of CWMA funds received is required. Local share can be provided by a landowner, land occupier, local government or other non-state source and can be in the form of cash or the cash value of services or materials contributed to the accomplishment of grant objectives.

## **4.0 Expenditure of Funds on Practices and Contracts**

The District Board has the authority and responsibility to approve expenditure of funds within their own organization. The approval or denial of expenditures of funds must be documented in the District's meeting minutes prior to beginning the funded activity. The grantee may delegate this authority as long as delegation is supported by a documented local board or council action, such as a motion, resolution, or adoption of a policy.

**4.1 Cost Share Contract.** A contract between the District and land occupier(s) receiving state funds is required to provide a legal standing to insure practices are installed and maintained according to approved standards and specifications. The required contract and procedures for using this contract are located in the Implementing Practices section of the BWSR Grants Administration Manual. Modifications to the conservation practice contract template may be made prior to execution with a land occupier and with prior approval from the District legal counsel and BWSR.

**4.1.1 Service Charges.** District or Technical Service Area charges for services such as administration, field investigations, design, and monitoring to establish the practice shall not be included in calculating the project cost for purposes of determining cost-share payment amounts to the land occupier. Service charges such as tree planting or mechanical weed control are eligible to be included.

**4.2 Contract Timeframe.** District Boards have the authority to adopt timely starting and completion dates. Execution and completion of a contract with a land occupier must be within the grant period. Contracts not completed within the period of the grant agreement must be cancelled unless the grant agreement with the District has been extended and the contract has been extended such that the contract timeframe is within the amended grant. Under all circumstances, grant funds must be expended within the period of a valid grant agreement.

- 4.3 Canceled Projects.** Funds from canceled projects or remaining from completed projects where the final cost was less than the estimated amount may be re-encumbered to a new contract as provided in the grant agreement. Funds that are unexpended after the end date of the grant agreement must be returned as provided in the grant agreement.
- 4.4 Removal of Practices.** District Boards may authorize the removal of a practice installed under this program provided the land occupier can show good cause for removal of the practice and the purpose of the original practice has been achieved.
- 4.5 Failure to Maintain Practices.** Funds re-paid to a district from a landowner who has failed to maintain a practice, must be reallocated to the local cost share program according to this policy and Minnesota Rules 8400.0050 to 8400.1900, less the administrative cost of the district.

## 5.0 BWSR Grant Reporting and Reconciliation Requirements

To ensure the continued success of the program, regular reporting of accomplishments and benefits is required. BWSR staff is authorized to develop grant agreements, including requirements and processes for project outcomes reporting, closeouts, fiscal reconciliations, and grant verifications. All grantees must follow the grant agreement and Grants Administration Manual. See specifically the Reporting Requirements and Grant Closeout Process sections of the Grants Administration Manual.

In the event there is a violation of the terms of the grant agreement, BWSR will enforce the grant agreement and evaluate appropriate actions, up to and including repayment of grant funds at a rate up to 100% of the grant agreement.

## Contact

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For additional information, contact the local Board Conservationist.

## History

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| Description of Revisions   | Date      |
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| Revised to include pre-construction cover as an eligible activity. Replaces previous Erosion Control and Water Management Program Policy (adopted May 24, 2017) with the newer Erosion Control and Water Management Program Policy (adopted June 26, 2019) | 6/26/2019 |