

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

~~[illegible]~~ Marty

LE REVIEW CHECKLIST

File No. 1405

Docket No. 05.0009.0986

DATE RECEIVED 9/24/87

ADOPTED W/O HEARING

REVIEW DATE

EMERGENCY RULE X

DUE DATE 10/8/87

REVISOR APPROVED

APPROVED 10-8-87 mjc

REVISOR DISAPPROVED

DISAPPROVED

FIELD W/SEC.STATE

WITHDRAWN

RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

~~Notice to Solicit Outside Information/Opinion~~

~~Date published in State Register~~

~~Comments~~

~~Petition for Adoption of a Rule~~

~~Board's Authorizing Resolution~~

✓ Proposed rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

40.45 Statutory Authority

no Small Business Statement

no Expenditure of public money statement

yes Signature

~~Statement of Need and Reasonableness~~

~~Small Business Statement~~

~~Fees - § 16A.128~~

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

7/22/87 Date 30/25 days before adoption

✓ Publication in State Register

7/27/87 Date 30/25 days before adoption

~~Resolution Adopting~~

✓ Findings of Fact, Conclusions & Order Adopting

9/22/87 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney

Paul Strandberg Name of SAAG representing agency

~~Notice of Submission to Attorney General~~

~~Affidavit of Mailing Notice to Attorney General~~

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : October 12, 1987

TO : CAROL MILLIGAN, Management Analyst
Planning Division
Department of Agriculture

FROM : MARTHA CASSERLY
Special Assistant
Attorney General

PHONE : 6-6204

SUBJECT : In the Matter of the Adopted Rule Relating to Reinvest in Minnesota Program

The above-referenced rule has been approved as to its legality by the Attorney General on October 8, 1987.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:nah
Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Adminsitrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

AG Copy

Department of Agriculture

Adopted Emergency Rules Relating to the Reinvest in Minnesota Program

Rules as Adopted

SOIL AND WATER CONSERVATION BOARD

RIM RESERVE PROGRAM

8400.3000 [Emergency] AUTHORITY.

Minnesota Statutes, chapter 40, authorizes the commissioner, in cooperation with the state board, districts, state and local private groups, and state and federal agencies, to implement a program of retiring marginal agricultural land from crop production and establishing on those lands permanent vegetative cover, restoring converted wetlands, or establishing windbreaks adjacent to highways. Parts 8400.3000 to 8400.5600 [Emergency] provide procedures and criteria to be followed by the state board in administering the program and allocating funds to districts. Standards and guidelines that the district boards must use in allocating funds to landowners are also provided.

8400.3100 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 8400.3000 to 8400.5600 [Emergency], the definitions in this part, in addition to those in Minnesota Statutes, chapter 40, apply.

Subp. 1a. **Abstract.** "Abstract" means a written summary of the title history of a particular tract of land.

Subp. 2. **Agricultural crop production.** "Agricultural crop production" means an agricultural activity devoted to the production of horticultural, row, close grown, pasture, or introduced hayland crops. "Production" includes, but is not limited to, tillage, planting, or harvesting operations.

Subp. 3. **Agricultural land.** "Agricultural land" means land used for farming.

Subp. 4. **Agricultural Stabilization and Conservation**

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Service. "Agricultural Stabilization and Conservation Service" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

Subp. 4a. **Altered wetland.** "Altered wetland" means a wetland that has been legally drained as determined by the Department of Natural Resources, dredged, filled, leveled, or otherwise sufficiently manipulated prior to December 23, 1985, to render the land suitable for agricultural crop production.

Subp. 5. **Annual plan.** "Annual plan" means a plan prepared by the district under Minnesota Statutes, section 40.07, subdivision 9, and according to the most recent version of the Guidelines for Soil and Water Conservation District Comprehensive and Annual Plans published by the state board. That publication is subject to frequent change, is available at the State Law Library, and is incorporated by reference.

Subp. 6. **Approved practice.** "Approved practice" means a soil and water conservation practice that qualifies for RIM reserve program funding and that has been approved by the state board.

Subp. 7. **Authorized farm corporation.** "Authorized farm corporation" means a corporation meeting the following standards:

A. it has no more than five shareholders;

B. its shareholders, other than any estate, are natural persons;

C. it has no more than one class of shares;

D. its revenue from rent, royalties, dividends, interest, and annuities does not exceed 20 percent of its gross receipts; and

E. shareholders holding a majority of its shares reside on the farm or are actively engaged in farming.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subp. 9. **Conservation easement, easement.** "Conservation easement" or "easement" means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include keeping or protecting

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natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property. Under the RIM reserve program, public access is controlled by the landowner.

~~Subp. 10. Converted wetland. "Converted wetland" means a wetland that has been legally drained, dredged, filled, leveled, or otherwise sufficiently manipulated to render the land suitable for agricultural crop production.~~

Subp. 10a. **Crop history.** "Crop history" means a sequence of agricultural crop production that includes at least one of the following activities on an annual basis: tillage, planting, or harvesting. For purposes of this part, land with a crop history includes acres devoted to "set-aside" and "conserving use" for United States Department of Agriculture programs.

Subp. 11. **Cropland.** "Cropland" means an area devoted to agricultural crop production.

Subp. 11a. **Deed.** "Deed" means a legal document by which title to property is transferred.

Subp. 12. **District.** "District" means a soil and water conservation district organized under Minnesota Statutes, chapter 40.

Subp. 13. **District board.** "District board" means the five supervisors of a district authorized to carry out the functions of the district.

Subp. 14. **District cooperator.** "District cooperator" means a landowner who has requested the assistance of a district in controlling conservation problems. The request must be formalized by the signing of a district cooperator's agreement and approved by the district board.

Subp. 15. **District technician.** "District technician" means a district employee or other nonfederal employee assigned to the district who has expertise in the design and application of soil and water conservation practices.

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Subp. 15a. **Encumbrance.** "Encumbrance" means anything that affects or limits the title to a property, such as outstanding mortgages, easement rights, or unpaid back taxes.

Subp. 16. **Enduring practice.** "Enduring practice" means a soil and water conservation practice that is designed for an effective life of 20 years or more.

Subp. 17. **Family farm.** "Family farm" means an unincorporated farming unit owned by one or more persons residing on the farm or actively engaging in farming.

Subp. 18. **Family farm corporation.** "Family farm corporation" means a corporation founded to farm and to own agricultural land, the majority of the voting stock of which is held by and the majority of the stockholders of which are persons or the spouses of persons related to each other within the third degree of kindred according to the rules of civil law, at least one of the stockholders of which is residing on or actively operating the farm, and none of whose stockholders are corporations. A family farm corporation does not cease to qualify because of a devise or bequest of shares of voting stock.

Subp. 19. **Farm operation.** "Farm operation" means property owned or leased by the landowner that is associated with farming.

Subp. 20. **Farming.** "Farming" means the production of (1) agricultural products; (2) livestock or livestock products; (3) milk or milk products; or (4) fruit or other horticultural products. It does not include processing, refining, or packaging the products, providing spraying or harvesting services, or producing timber, forest products, or poultry products.

Subp. 21. **Field Office Technical Guide.** "Field Office Technical Guide" has the meaning given in part 8400.0100, subpart 15.

Subp. 22. **Fish and Wildlife Service.** "Fish and Wildlife Service" means the Fish and Wildlife Service of the United States Department of the Interior.

Subp. 22a. **Highway windbreak; living snowfence.** "Highway windbreak" or "living snowfence" means a strip or belt of trees,

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shrubs, or grass barriers at least six rows deep and within 300 feet of the right-of-way of a highway.

Subp. 23. **Hydric soil.** "Hydric soil" means a soil in its natural undrained condition that is saturated at or near the surface or flooded frequently during much of the growing season, and that can support hydrophytic vegetation. A list of hydric soils may be found in the Field Office Technical Guide.

Subp. 24. **Hydrophytic vegetation.** "Hydrophytic vegetation" means herbaceous or woody plants that grow in water, in wet or saturated soils, or in soils that are at least periodically deficient in oxygen as a result of excess water.

Subp. 25. **Inherently unproductive.** "Inherently unproductive" means that the soil properties of available water capacity, bulk density, and pH in the uppermost 100 centimeters (39 inches) of a soil, are present so that an unfavorable rooting environment exists for agronomic crops.

Subp. 26. **Landowner.** "Landowner" means an individual, family farm, family farm corporation as defined in Minnesota Statutes, section 500.24, subdivision 2, paragraph (c), or authorized farm corporation as defined in section 500.24, subdivision 2, paragraph (d), who either owns eligible land or is purchasing eligible land under a contract for deed.

Subp. 26a. **Lien.** "Lien" means a legal claim on property used as security for debt.

Subp. 27. **Local emergency.** "Local emergency" means an emergency declared under Minnesota Statutes, section 12.29. The commissioner, after consulting with the commissioner of natural resources, must concur with a decision to declare a local emergency that affects easement provisions.

Subp. 28. **Marginal agricultural land.** "Marginal agricultural land" means land with cropland soils that are inherently unproductive for agricultural crop production or subject to significant potential soil productivity loss from erosion. The state board shall provide districts with a list of soil mapping units indicative of marginal agricultural land. Districts may revise the list as necessary to reflect local soil

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characteristics. Changes must be approved by the state board.

Subp. 29. **Natural vegetation.** "Natural vegetation" means plant species including, but not limited to, grasses, trees, shrubs, or hydrophytic vegetation that form an area's noncultivated plant community, excluding the area immediately adjacent to buildings.

Subp. 30. **Nonproduction practice.** "Nonproduction practice" means a soil and water conservation practice that is installed or applied to control soil erosion or sedimentation, protect or improve water quality, or create or enhance wildlife habitat. Practices installed or applied primarily to bring land into production or to increase short-term productivity are not nonproduction practices.

Subp. 30a. **Pasture.** "Pasture" means a cultivated or interseeded area devoted to the production of forage consisting of introduced or native species and harvested by grazing. These areas are managed in a rotation of row crops or small grains and are considered to be in agricultural crop production. Areas of permanent pasture are excluded.

Subp. 30b. **Permanent cover.** "Permanent cover" means permanent vegetative cover as defined by part 8400.5600 [Emergency], subpart 1, and the water area created by a restored wetland.

Subp. 31. **Permanent pasture.** "Permanent pasture" means an area of forage species, harvested by grazing, that has not been cultivated within the last ten years. These areas are not considered to be in agricultural crop production.

Subp. 31a. **Proof of title.** "Proof of title" means a certified copy of a deed, updated abstract, attorney's opinion, or title insurance.

Subp. 31b. **Present value.** "Present value" means the value today of an amount that would have been received later, discounted at ~~some~~ a discount or interest rate established by the commissioner.

Subp. 32. **Protected water.** "Protected water" means water basins, water courses, and wetlands, as defined in Minnesota

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Statutes, section 105.37, on the inventory of public waters and wetlands under Minnesota Statutes, section 105.391, subdivision 1, and identified on a protected waters and wetlands inventory map available in the county auditor's office.

Subp. 33. **Range.** "Range" means an area supporting an understory or periodic cover of herbaceous or shrubby plants suitable for grazing that has not been cultivated within the last ten years.

Subp. 34. [See Repealer.]

Subp. 34a. **Restored wetland.** "Restored wetland" means ~~a converted~~ an altered wetland restored through legal and deliberate activities to a condition that meets the definition of a wetland in subpart 43.

Subp. 35. **RIM reserve program.** "RIM reserve program" means the reinvest in Minnesota resources conservation reserve program established in Minnesota Statutes, sections 40.41 to 40.45.

Subp. 36. [See Repealer.]

Subp. 37. **Screening committee.** "Screening committee" means a group established and chaired by a district, composed of representatives of private, state, and local organizations or clubs, and state and federal agencies with an interest in the RIM reserve program. ~~A screening committee must include~~ The following must be invited to participate: representatives of the Department of Natural Resources, the Pollution Control Agency, the Agricultural Stabilization and Conservation Service, the Fish and Wildlife Service, and the Soil Conservation Service~~, and the Department of Transportation if windbreaks are to be installed adjacent to highway rights-of-way~~.

Subp. 38. **Significant potential soil productivity loss.** "Significant potential soil productivity loss" means that soil productivity loss due to erosion may occur in a short time unless management measures are initiated to control soil erosion. The method of calculation combines the rating of a soil as a rooting environment with landscape characteristics that represent erosion potential.

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Subp. 39. **Soil and water conservation practice.** "Soil and water conservation practice" means structural or vegetative practices applied to land to control soil erosion, sediment, or other water pollutants.

Subp. 40. **Soil Conservation Service.** "Soil Conservation Service" means the Soil Conservation Service of the United States Department of Agriculture.

Subp. 41. **Soil mapping unit.** "Soil mapping unit" means a kind of soil or combination of soils shown at the scale of mapping for the defined purposes and objectives of a soil survey.

Subp. 42. **State board.** "State board" means the State Soil and Water Conservation Board created under Minnesota Statutes, section 40.03. Effective October 1, 1987, "state board" means the Board of Water and Soil Resources created by Laws 1987, chapter 358.

Subp. 42a. **Supporting practice.** "Supporting practice" means a soil and water conservation practice installed to improve or protect the establishment of permanent cover.

Subp. 42b. **Title.** "Title" means a legal document by which a person claims ownership to a particular piece of property.

Subp. 42c. **Title insurance.** "Title insurance" means financial protection against loss or damage resulting from defects in a title to a particular tract of land.

Subp. 43. **Wetland.** "Wetland" means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, or that periodically does support, a ~~predominance~~ prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

~~Subp. 44. Windbreak. "Windbreak" means a strip or belt of trees, shrubs, or grass barriers at least six rows deep and within 300 feet of the right-of-way of a highway.~~

8400.3150 [Emergency] PURPOSE AND POLICY.

It is the purpose of the RIM Reserve Program to keep certain marginal agricultural land out of crop production to

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protect soil and water quality and support fish and wildlife habitat. It is state policy to encourage the retirement of marginal, highly erodable land, particularly land adjacent to public waters and drainage systems, from crop production and to reestablish a cover of perennial vegetation.

8400.3200 [Emergency] ESTABLISHING APPROVED PERMANENT COVER AND SUPPORTING PRACTICES.

The state board, in consultation with the districts and state and federal agencies, shall develop a list of practices that are eligible for RIM reserve program funds and a schedule of maximum rates. The list is contained in parts 8400.5200 to 8400.5600 [Emergency] and the schedule in part 8400.4300 [Emergency]. Changes to the list and schedule must be made under Minnesota Statutes, chapter 14.

8400.3300 [Emergency] CRITERIA FOR APPROVED PRACTICES.

Practices approved by the state board must be enduring in nature and have as their primary purpose the control of soil erosion or sedimentation, protection or improvement of water quality, or creation or improvement of fish and wildlife habitat. Practices cost-shared under this program must be designed for a minimum effective life of 20 years, be nonproduction practices, and have specifications providing for the use of plant species and construction techniques that provide quality fish and wildlife benefits.

8400.3400 [Emergency] ELIGIBLE LAND.

Land may be enrolled in the RIM reserve program if the land:

A. is marginal agricultural land;

B. is adjacent to marginal agricultural land that is being enrolled if enrollment of the adjacent land is beneficial to resource protection or necessary for efficient recording of the land description and if at least 50 percent of the total proposed acreage is marginal agricultural land;

C. consists of a converted wetland and cropland adjacent to the converted wetland to the ~~extend~~ extent of up to

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four acres of cropland for each acre of wetland restored; or

D. is land that with a ~~windbreak~~ living snowfence would be beneficial to resource protection.

In addition, enrolled land must have all of the following characteristics:

(1) a crop history for at least two years during the period 1981 to 1985;

(2) was owned by the landowner on January 1, 1985, or was owned by the landowner, or a parent or other blood relative of the landowner, for at least three years before the date of application;

(3) is at least five acres in size, except for a ~~windbreak~~ living snowfence, or is a whole field as defined by the Agricultural Stabilization and Conservation Service;

(4) is not currently set-aside, enrolled, or diverted under another federal or state government program including, but not limited to, federal conservation reserve, federal production adjustment set-aside, or state or federal water bank; and

(5) is physically possible to crop.

The total enrolled land of a landowner in the RIM reserve program may not exceed 20 percent of the landowner's total agricultural land acreage in the state, if the landowner owns at least 200 acres of agricultural land ~~as-defined-by-Minnesota Statutes,-section-500.24,-subdivision-2~~. If a landowner owns less than 200 acres of agricultural land, the amount that may be enrolled in the conservation reserve is:

(a) all agricultural land owned, if 20 acres or less; or

(b) if the total agricultural land owned is more than 20 acres but less than 200 acres, 20 acres plus ten percent of the ~~balance-of-the-agricultural-land~~ total.

In selecting land for enrollment in the program, ~~highest~~ higher priority must be given to permanent easements than to limited-term easements that are consistent with the purposes stated in part 8400.3150.

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8400.3500 [Emergency] CONSERVATION EASEMENTS.

A district board may act, on behalf of the commissioner and state, to acquire conservation easements on eligible land. An easement may be permanent or for not less than 20 years. By signing an easement, a landowner agrees:

A. to convey to the state a conservation easement that is not subject to any prior title, lien, or encumbrance;

B. to establish and maintain permanent cover and other required practices on the land subject to the easement of a type determined by the district board and described in parts 8400.5200 to 8400.5600 [Emergency];

C. to restore any converted wetland and to convey to the state a permanent easement for the restored wetland area;

D. that other noncrop or permanent pasture land supporting natural vegetation owned or leased as part of the same farm operation at the time of application will not be converted to agricultural crop production or pasture as specified in part 8400.4900 [Emergency];

E. to the enforcement of the easement terms and maintenance provisions in part 8400.4700 [Emergency];

F. not to alter wildlife habitat and other natural features of the land, unless specifically approved by the commissioner, after consultation with the commissioner of natural resources;

G. to refrain from agricultural crop production, unless specifically approved by the district for wildlife management purposes such as food plots;

H. to prohibit grazing of livestock unless specifically approved by the commissioner, after consultation with the commissioner of natural resources, in the case of severe drought or a local emergency;

I. to prohibit spraying with chemicals or mowing, except as necessary to comply with state and county noxious weed control laws, for emergency control of pests necessary to protect public health, or to maintain permanent vegetative cover

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as approved by the district;

J. to allow maintenance of public drainage systems. The activities must not damage the conservation purpose of the easement area. In addition, any authorization granted by the commissioner must provide that the easement area be restored to the condition required by the terms of the conservation easement; and

K. that easement duration may be lengthened during its effective term through mutual agreement with the commissioners of agriculture and natural resources if they determine that the changes effectuate the purpose of the program or facilitate its administration.

8400.3600 [Emergency] ALLOCATION OF FUNDS.

The state board shall allot funds to a district board based on the following factors:

A. the extent of marginal agricultural land in the district;

B. the potential for restoring wetlands;

C. the need for windbreaks within 300 feet of a highway right-of-way; and

D. the need for soil erosion or sediment control, protection or improvement of water quality, or improvement of fish and wildlife habitat.

The state board may also consider the expressed interest of landowners and the readiness of the district board and cooperating groups and agencies to implement the program.

The state board may increase or decrease its obligation as necessary to maximize the use of funds among districts, and may require enrollment periods.

8400.3700 [Emergency] ADMINISTRATION OF FUNDS.

Following authorization to obligate funds from the state board, a district board is responsible for administration of the funds in accordance with Minnesota Statutes, chapter 40 and other applicable laws. The district board may make decisions concerning use of these funds in accordance with parts 8400.3000

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to 8400.5600 [Emergency].

As a condition to participating in the program, the district board shall ensure compliance with the maintenance provisions of part 8400.4700 [Emergency] and Minnesota Statutes, chapter 40 by monitoring easements in a manner prescribed by the state board.

Before considering any requests from landowners, the district board shall establish a screening committee. Then, in cooperation with the screening committee, local priority areas must be established. In addition, administrative procedures necessary to efficiently implement the program must be developed. Priority areas must be based on the following factors:

A. the extent of high priority erosion or water quality problems in the district as outlined in the district comprehensive and annual plans;

B. the potential of the land for fish and wildlife production, reducing erosion, and protecting water quality;

C. advice of technical experts familiar with the district;

D. priorities as established by the district board in consultation with other members of the screening committee;

E. current programs administered by the Agricultural Stabilization and Conservation Service, the Fish and Wildlife Service; and the Department of Natural Resources; and

F. RIM reserve program funds available.

8400.3800 [Emergency] APPLICATION FOR FUNDS BY LANDOWNERS.

Landowners interested in participating in the RIM reserve program shall apply to the districts on forms provided by the state board and available from the district office. An application must be filled out in its entirety. A district technician is then responsible for making a determination of easement eligibility and a cost estimate to establish permanent cover, restore wetlands, and, if necessary, supporting practices. Actual determination of need and a cost estimate may

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be done by district board-approved representatives from other agencies. Additional information that may be required by the district board in its consideration of the application must be included.

8400.3900 [Emergency] LAND IN MORE THAN ONE DISTRICT.

If a request involves land in more than one district, application must be made to each district containing proposed land. The affected districts must cooperate to ensure a consistent and timely review of the proposed lands.

8400.4000 [Emergency] CRITERIA FOR DISTRICT BOARD REVIEW.

The criteria for district board review are listed in this part.

A. The applicant must be a district cooperator.

B. The practices needed to establish permanent cover or restore wetlands must be on the list of approved practices.

C. The primary purpose of the requested easement must be the control of soil erosion or sedimentation, the protection or improvement of water quality, or the improvement of fish and wildlife habitat. In cases where the primary purpose is questionable, the district board in cooperation with the screening committee shall make a determination of the acceptability of the application.

D. The requested easement and vegetative practices must be consistent with local plans and priorities.

E. The easement must be maintained by the landowner, who is responsible for operation and maintenance of vegetative and other supporting practices applied under this program.

F. The practice must comply with the technical requirements of the Field Office Technical Guide <u>or other practice specifications approved by the commissioner</u>. Technical review must be completed by a district technician or Soil Conservation Service employee who has applicable job approval authority or by district board-approved representatives from other agencies.

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8400.4100 [Emergency] DISTRICT APPROVAL.

After completion of a priority determination and cost estimate, the district board shall either approve or deny the application. If it is approved, the district board shall instruct the chair or acting chair to sign the application. Once it is signed, the application becomes an agreement between the district and landowner and serves as the authorization to begin establishing permanent cover and, if required, other supporting practices. Practices begun before district board approval are ineligible for financial assistance. The requirements for permanent cover establishment, wetland restoration, and maintenance must be specified in a plan prepared by the district technician or district board-approved representatives from other agencies. This permanent cover plan, once approved by the landowner and district board, ~~becomes a part of the easement~~ satisfies easement requirements. Changes in any provisions of the plan are subject to review and approval by the landowner and district board or district board-approved representatives from other agencies. If an application is denied, the district board shall notify the landowner in writing within 30 days after district board action of the reason for denial of the application.

After district board approval, a landowner may be required to provide proof of title of the land enrolled in the following manner:

A. for easements less than $5,000 in value, a certified copy of the deed may be required at landowner expense;

B. for easements between $5,000 and $20,000 in value, an updated abstract may be required at landowner expense;

C. for all permanent easements and limited-term easements over $20,000 in value, title insurance may be obtained at state expense; and

D. an updated abstract may be required at landowner expense by the state regardless of easement value if questions arise during title review.

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8400.4200 [Emergency] CONSERVATION EASEMENT PAYMENTS.

After approval of an application, easement documents provided by the state board must be completed by the district. Once the easement is signed by the landowner, remaining easement documents must be completed within 120 days. If not, the easement becomes null and void unless extended through mutual agreement of the parties. Also, upon signing, the landowner is obligated to comply with all easement conditions including the establishment of permanent cover as specified in parts 8400.3500 and 8400.4100 [Emergency]. Once recorded on the land title, the easement is considered conveyed. Upon conveyance, the easement payments must be made according to ~~the following schedule~~ A and B.

A. For permanent easements, payments are per acre figures derived from cash rent adjusted for county-wide variations in estimated market value. As calculated, the figures are established on a township basis with the lower of the following two values selected as the payment:

(1) 100 percent of the present value; or

(2) 90 percent of estimated market value.

This payment method provides higher values for better quality land and ensures that payments do not exceed estimated market values. A schedule of payments for townships and unorganized areas is developed annually and is available at district offices or from the commissioner.

B. For limited duration easements not less than 20 years in length, payments are based on ~~70~~ 65 percent of the ~~present value of average cash rent for the county in which the parcel is located~~ permanent easement payment.

~~B. For permanent easements, payments are based on 100 percent of the present value of average cash rent for the county in which the parcel is located.~~

~~C. Parcels involving the restoration of converted wetlands or the establishment of a windbreak within 300 feet of a highway right of way must receive an additional payment of ten percent of the present value of average cash rent.~~

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The commissioner shall annually establish~~,-at-least annually,~~ the discount rate to be used for calculating present value. Average cash rent ~~figures~~ and estimated market value are based on ~~an-annual-survey-conducted~~ information provided by the Minnesota Department of Revenue in cooperation with local assessors.

Payments will be a one-time lump sum amount unless the landowner requests up to four equal annual installments.

8400.4300 [Emergency] ESTABLISHMENT OF PERMANENT COVER AND SUPPORTING PRACTICES.

Subpart 1. **Installation of practices.** Establishment of permanent cover and supporting practices must be monitored by the district board to ensure compliance with part 8400.4000 [Emergency], item F. Upon completion, a district technician shall certify whether or not the practice has been satisfactorily performed, including certification that the practice meets the requirements of part 8400.4000 [Emergency], item F. No certification may be made until all specifications have been satisfied. Upon certification of completion, the landowner shall contact the district for payment and present documentation of the costs incurred in the installation of the practice in the form of receipts or invoices.

Subp. 2. **In-kind services.** In-kind services provided by the landowner including, but not limited to, earthwork, seedbed preparation, and seeding, may be credited to the landowner's share of the total cost of the practice. The district board shall determine whether charges for in-kind services are practical and reasonable.

Subp. 3. **Actual cost differing from estimated cost.** If the actual cost of a practice exceeds the RIM reserve estimated cost, the district board may only authorize payment of the approved rate. If the actual cost is less than the RIM reserve estimate, the district shall only authorize payment of the actual cost of the practice. The district board shall review the receipts or invoices provided by the landowner to determine

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the actual cost of the practice. If the district board determines that the claims are practical and reasonable, it shall authorize payment. Payments may not exceed the rates established in subpart 4. If the district board determines that certain claims are not justified, it shall notify the landowner in writing of the unjustified claims within 30 days. The district board shall then authorize the issuance of a check for the justified claims.

Subp. 4. **Payments for establishment of permanent cover.** After the easement has been conveyed and certification by an assigned district technician that permanent vegetative cover is established, the district board shall notify the ~~state board~~ commissioner to make the following payments to the landowner:

A. to establish the permanent cover or supporting practices required by the permanent cover plan, up to 75 percent of the total eligible cost not to exceed $75 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed $100 per acre for permanent easements; and

B. for the cost of planting trees required by the permanent cover plan, up to 75 percent of total eligible cost not to exceed $200 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed $300 per acre for permanent easements.

Supporting practices must be required by the permanent cover plan. These include practices or components of practices listed in parts 8400.5200 to 8400.5600 [Emergency]. Supporting practices must be installed in conjunction with permanent cover. If trees are combined with another cover practice, payments may increase to the combined total eligible cost specified in items A and B, or up to $100 per acre for cover and $300 per acre for trees if a permanent easement and $75 per acre for cover and $200 per acre for trees if a limited duration easement.

RIM reserve payments may be supplemented by funds from other programs or organizations, including sportsmen's groups or

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state or federal cost-share programs. Requirements for supplementing payments must be determined by the contributing agency or group.

8400.4400 [Emergency] MAXIMUM PAYMENT.

The ~~state board~~ commissioner may not pay more than $50,000 from the RIM reserve program to a landowner for permanent cover and conservation easements. The district shall record the easement document with the county recorder.

8400.4500 [Emergency] DISTRICT RECORDS.

The district shall maintain a current ledger of easements on forms provided by the state board. The ledger must specify the landowners with whom the district has developed easements, the soil mapping units of enrolled land, the permanent cover and supporting practices involved, the status of permanent cover establishment, the total of funds obligated and spent, the size and type of easements, and their effective date. Recording must be done, to the extent possible, in a manner compatible with the needs of cooperating agencies and groups. In addition, the location of easements must be recorded on base maps provided by the Land Management Information Center of the State Planning Agency to facilitate entry into a state data base.

8400.4600 [Emergency] EASEMENT RENEWAL.

When a conservation easement expires, a new permanent or limited term conservation easement may be acquired by written concurrence of the commissioner and the landowner. The district may recommend that the ~~state board~~ commissioner adjust payment rates as a result of renewing a ~~ten-year~~ limited-term conservation easement only after examining the condition of the established cover, supporting practices, and land values.

8400.4700 [Emergency] MAINTENANCE.

A landowner is responsible for operation and maintenance of permanent cover and supporting practices applied under this program and ensuring that easement restrictions in parts 8400.3500 [Emergency] and 8400.4900 [Emergency] are followed to

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ensure that the easements conservation objective is met and the effective life of 20 or more years is achieved.

Should the landowner fail to install or maintain the practices or comply with easement restrictions during their effective life, the landowner may be subject to:

A. damages up to the amount of financial assistance received for permanent cover, supporting practices, and easement payment plus interest accrued from the date of each nonmaintenance determination;

B. a mandatory court-imposed injunction; or

C. other actions directed at correcting the maintenance violation. The district board, in consultation with the ~~state board~~ commissioner and legal counsel, shall determine how maintenance violations must be corrected. Easements remain in effect even if maintenance violations have occurred.

The landowner is not liable for financial assistance received if the failure was caused by reasons beyond the landowner's control; in those instances, the district board may authorize payment for the repair. Payments for repair must comply with part 8400.4300 [Emergency]. In no case may a district board provide financial assistance to a landowner for the reapplication of permanent cover or supporting practices that were removed or altered by the landowner during their effective life or failed due to improper maintenance.

8400.4800 [Emergency] MONITORING.

The state board may require reports from the district to monitor the progress of the RIM reserve program and the use of funds. The reports must be on forms provided by the state board.

8400.4900 [Emergency] NONCROPLAND CONVERSION.

Land supporting natural vegetation, including, but not limited to, trees, shrubs, permanent pasture, range, or wetland, at the time of easement application must not be converted to cropland. This restriction applies to all land owned or leased as part of the landowner's farm operation.

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8400.5000 [Emergency] APPEALS.

If a landowner feels unfairly treated, the landowner may request that the district board review its decision. Should the landowner and the district board reach an impasse, the landowner may petition in writing for a hearing before the state board. If it grants the hearing, which must be informal, the state board or a referee appointed by it shall hear all testimony offered, and shall accept written testimony for ten days after the hearing. The referee, if one is used, shall report the findings and recommendation to the state board, which shall within 60 days of the hearing date make its decision on the appeal, upholding, reversing, or amending the decision of the district board.

8400.5100 [Emergency] VARIANCES.

If a district board feels that a particular requirement of part 8400.3400 [Emergency] prevents a RIM reserve program application from being funded, a request for a variance may be filed with the director of the state board. The request must be in writing and contain:

A. the name and address of the district board making the request and the signature of the district chair;

B. the nature of the variance being sought, including an identification of the applicable rule from which the variance is sought, the time period for which it is sought, and the reason for seeking the variance;

C. a statement of alternatives for dealing with the funding of the affected project if the variance is not granted; and

D. a statement of the effects on applicable natural resources and the public if the variance is granted.

Variance requests must be submitted to the director of the state board at least 30 days before the state board meeting at which the variance is requested to be heard. Within 45 days after the meeting, the state board must approve or deny the variance request and provide written notification of the

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decision to the applicant. A variance must not be granted if it is in conflict with any statute. The state board may grant a variance upon conditions it prescribes.

If a variance has been granted by the state board, the district board holding the variance may file with the state board at any time a written request for modification or amendment of the variance. The request for modification or amendment, and the state board's consideration of the request, must comply with this part.

8400.5200 [Emergency] APPROVED PRACTICE: STRUCTURES.

Subpart 1. **Definition.** For the purpose of this part, "structure" includes, but is not limited to, floodwater retarding dams, levees, or drain tile plugs designed to provide temporary storage of floodwater, control the release rate of water providing downstream channel stability, impound water, or restore or create wetland areas.

Subp. 2. **Purpose.** The purpose of structures is to permit the establishment of ~~vegetative~~ permanent cover, control soil erosion, protect or improve water quality, or create or improve wildlife habitat. An erosion control structure may provide multiple benefits including, but not limited to, recreation, flood control, and channel stability.

Subp. 3. **Applicability.** Structures may be used on enrolled lands where they are necessary to permit establishment of ~~vegetative~~ permanent cover, for the control of soil erosion, water quality protection or improvement, or creation or enhancement of wildlife habitat. Structures may also be installed on nonenrolled lands if necessary to enhance or protect enrolled lands.

Subp. 4. **Policies.** Funding is authorized:

A. only for the construction of structures that provide for reduction of soil erosion, water quality protection or improvement, or creation or enhancement of wildlife habitat;

B. for tree and shrub plantings adjacent to the structure and seeding necessary to stabilize the structure and

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adjacent critical areas, including, when possible, the use of those species that provide quality wildlife habitat;

C. for structures that provide multiple benefits if the primary benefit is soil erosion control, water quality protection or improvement, or creation or improvement of wildlife habitat; and

D. for temporary materials and seedings necessary to properly stabilize the structure during construction.

8400.5300 [Emergency] APPROVED PRACTICE: DIVERSIONS.

Subpart 1. **Definition.** For purposes of this part, "diversion" means a channel with a supporting ridge on the lower side constructed across the slope.

Subp. 2. **Purpose.** The purpose of a diversion is to permit the establishment of ~~vegetative~~ permanent cover or divert water away from erosive areas or areas that pose a threat to water quality to areas where it can be used or disposed of safely. Diversions may provide additional benefit to wildlife.

Subp. 3. **Applicability.** A diversion may be used where:

A. runoff from higher areas is eroding enrolled lands or is needed to establish ~~vegetative~~ permanent cover; or

B. surface and shallow subsurface flow is damaging sloping enrolled lands or contaminating ground or surface water.

Diversions may be installed on nonenrolled lands if necessary to enhance or protect enrolled lands.

Subp. 4. **Policies.** Funding is authorized:

A. for tile systems necessary for the establishment and operation of diversions;

B. for construction necessary to properly establish diversions including earthwork, materials, and seedings; and

C. for temporary materials and seedings necessary to properly stabilize diversions during construction.

8400.5400 [Emergency] APPROVED PRACTICE: STORMWATER CONTROL SYSTEMS.

Subpart 1. **Definition.** For purposes of this part, "stormwater control system" means a practice or system of

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practices including, but not limited to, grassed waterways and grade stabilization structures installed to convey storm runoff to a constructed or natural outlet in a nonerosive manner. This practice does not apply when the primary purpose is drainage to expand or improve crop production or making the cropping system more convenient.

Subp. 2. **Purpose.** The purpose of a stormwater control system is to permit the establishment of ~~vegetative~~ permanent cover, provide a means of regulating or removing runoff to control erosion, or protect or improve water quality. Additional benefit may be provided through creation of wildlife habitat.

Subp. 3. **Applicability.** A stormwater control system may be used on enrolled lands by using vegetative or structural measures for control of erosion or protection or improvement of water quality. Stormwater control systems may also be installed on nonenrolled lands if necessary to protect enrolled lands.

Subp. 4. **Policies.** Funding is authorized:

A. for the construction of practices required in a complete stormwater control system, including, but not limited to, a lined waterway or outlet, detention ponds, permanent sod cover, and permanent vegetation including trees, shrubs, and grasses;

B. for tile systems necessary for the establishment and operation of stormwater control systems; and

C. for temporary materials and seedings necessary to properly stabilize a stormwater control system during construction.

8400.5500 [Emergency] APPROVED PRACTICE: FIELD WINDBREAKS.

Subpart 1. **Definitions.** For purposes of this part, "field windbreak" means a strip or belt of trees, or shrubs, ~~or grass barriers~~ established within ~~a field~~, or adjacent to a field, ~~or within 300 feet of a highway right-of-way~~.

Subp. 2. **Purpose.** The ~~primary~~ purpose of a field windbreak is to create wildlife habitat or reduce wind erosion.

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Additional benefits may be ~~controlling snow deposition, and~~ beautification and enhancement of the landscape.

Subp. 3. **Applicability.** Field windbreaks may be used in or around fields ~~or adjacent to highway rights-of-way~~ that need additional wildlife habitat or protection against wind erosion.

Subp. 4. **Policies.** Funding is authorized:

A. for field windbreaks if the inter-windbreak or non-windbreak area is established in permanent cover at the time the windbreak is established; and

B. for site preparation, planting materials, planting, chemicals for weed control, and other applicable costs necessary to establish a field windbreak.

The landowner is responsible for controlling competitive vegetation for two years following planting and must bear the cost of control. Tree planting must not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage systems.

8400.5550 [Emergency] APPROVED PRACTICE: HIGHWAY WINDBREAKS; LIVING SNOWFENCES.

Subpart 1. **Definition.** For purposes of this part, "highway windbreak" or "living snowfence" has the meaning given in part 8400.3100 [Emergency], subpart 22a.

Subp. 2. **Purpose.** The purpose of a living snowfence is to create wildlife habitat and control snow deposition. Additional benefits may be beautification and enhancement of the landscape.

Subp. 3. **Applicability.** A living snowfence may be used in fields within 300 feet of the right-of-way of highways that would benefit from wildlife habitat or the control of snow deposition.

Subp. 4. **Policies.** Funding is authorized:

A. only for installation of living snowfences that create wildlife habitat and control snow deposition; and

B. for site preparation, planting materials, planting chemicals for weed control, and other applicable costs necessary to establish a living snowfence.

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The landowner is responsible for controlling competitive vegetation for two years following planting and must bear the cost of control. Tree planting must not conflict with existing electrical lines, rights-of-way, or drainage systems.

8400.5600 [Emergency] APPROVED PRACTICE: ESTABLISHMENT OF PERMANENT VEGETATIVE COVER.

Subpart 1. **Definition.** For purposes of this part, "permanent vegetative cover" means planting permanent vegetation on enrolled lands, including trees, shrubs, vines, grasses, and legumes.

Subp. 2. **Purpose.** The purpose of permanent vegetative cover is to control soil erosion, protect or improve water quality, or create or improve wildlife habitat.

Subp. 3. **Applicability.** Permanent vegetative cover may be used on enrolled lands if vegetation is needed to control soil erosion, protect or improve water quality, or create or improve wildlife habitat.

Subp. 4. **Policies.** Funding is authorized for:

A. earthwork, materials, seed, and seedings, and other associated costs necessary to stabilize the area; and

B. temporary materials and seedings necessary to stabilize the area during construction.

Subp. 5. **Conflicts.** Tree planting must not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage systems.

REPEALER. Part 8400.3100 [Emergency], subparts 34 and 36, are repealed.

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2:30PM

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 8 1987
Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
October 8 1987
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassidy
SPECIAL ASSISTANT ATTORNEY GENERAL

Department of Agriculture

Proposed Emergency Rules Relating to the Reinvest in Minnesota Program

Rules as Proposed

SOIL AND WATER CONSERVATION BOARD

RIM RESERVE PROGRAM

8400.3000 [Emergency] AUTHORITY.

Minnesota Statutes, chapter 40, authorizes the ~~state board~~ commissioner, in cooperation with the state board, districts, state and local private groups, and state and federal agencies, to ~~administer~~ implement a program of retiring marginal agricultural land from crop production and establishing on those lands permanent vegetative cover, restoring converted wetlands, or establishing windbreaks adjacent to highways. Parts 8400.3000 to 8400.5600 [Emergency] provide procedures and criteria to be followed by the state board in administering the program and allocating funds to districts ~~and~~. Standards and guidelines that the district boards ~~shall~~ must use in allocating funds to landowners are also provided.

8400.3100 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 8400.3000 to 8400.5600 [Emergency], the definitions in this part, in addition to those in Minnesota Statutes, chapter 40, apply.

Subp. 1a. **Abstract.** "Abstract" means a written summary of the title history of a particular tract of land.

Subp. 2. **Agricultural crop production.** "Agricultural crop production" means an agricultural activity devoted to the production of horticultural, row, close grown, ~~rotation~~ pasture, or introduced hayland crops. "Production" includes, but is not limited to, tillage, planting, or harvesting operations.

Subp. 3. **Agricultural property land.** "Agricultural ~~property~~ land" means land ~~devoted to~~ used for farming~~, exclusive of buildings~~.

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Subp. 4. **Agricultural Stabilization and Conservation Service.** "Agricultural Stabilization and Conservation Service" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

Subp. 5. **Annual plan.** "Annual plan" means a plan prepared by the district under Minnesota Statutes, section 40.07, subdivision 9, and according to the most recent version of the Guidelines for Soil and Water Conservation District Comprehensive and Annual Plans published by the state board. That publication is subject to frequent change, is available at the State Law Library, and is incorporated by reference.

Subp. 6. **Approved practice.** "Approved practice" means a soil and water conservation practice that qualifies for RIM reserve program funding and that has been approved by the state board.

Subp. 7. **Authorized farm corporation.** "Authorized farm corporation" means a corporation meeting the following standards:

A. it has no more than five shareholders;

B. its shareholders, other than any estate, are natural persons;

C. it has no more than one class of shares;

D. its revenue from rent, royalties, dividends, interest, and annuities does not exceed 20 percent of its gross receipts; and

E. shareholders holding a majority of its shares reside on the farm or are actively engaged in farming.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subp. 9. **Conservation easement, easement.** "Conservation easement" or "easement" means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include keeping or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical,

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architectural, archaeological, or cultural aspects of real property. Under the RIM reserve program, public access is controlled by the landowner.

Subp. 10. **Converted wetland.** "Converted wetland" means a wetland that has been legally drained, dredged, filled, leveled, or otherwise sufficiently manipulated ~~since approval of an easement~~ to render the land suitable for agricultural crop production.

Subp. 10a. **Crop history.** "Crop history" means a sequence of agricultural crop production that includes at least one of the following activities on an annual basis: tillage, planting, or harvesting.

Subp. 11. **Cropland.** "Cropland" means an area devoted to agricultural crop production.

Subp. 11a. **Deed.** "Deed" means a legal document by which title to property is transferred.

Subp. 12. **District.** "District" means a soil and water conservation district organized under Minnesota Statutes, chapter 40.

Subp. 13. **District board.** "District board" means the five supervisors of a district authorized to carry out the functions of the district.

Subp. 14. **District cooperator.** "District cooperator" means a landowner who has requested the assistance of a district in controlling conservation problems. The request must be formalized by the signing of a district cooperator's agreement ~~on a form provided by the state board~~ and approved by the district board.

Subp. 15. **District technician.** "District technician" means a district employee or other nonfederal employee assigned to the district who has expertise in the design and application of soil and water conservation practices.

Subp. 15a. **Encumbrance.** "Encumbrance" means anything that affects or limits the title to a property, such as outstanding mortgages, easement rights, or unpaid back taxes.

Subp. 16. **Enduring practice.** "Enduring practice" means a

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soil and water conservation practice that is designed for an effective life of ~~ten~~ 20 years or more.

Subp. 17. **Family farm.** "Family farm" means an unincorporated farming unit owned by one or more persons residing on the farm or actively engaging in farming.

Subp. 18. **Family farm corporation.** "Family farm corporation" means a corporation founded to farm and to own agricultural land, the majority of the voting stock of which is held by and the majority of the stockholders of which are persons or the spouses of persons related to each other within the third degree of kindred according to the rules of civil law, at least one of the stockholders of which is residing on or actively operating the farm, and none of whose stockholders are corporations. A family farm corporation does not cease to qualify because of a devise or bequest of shares of voting stock.

Subp. 19. **Farm operation.** "Farm operation" means property owned or leased by the landowner that is associated with farming.

Subp. 20. **Farming.** "Farming" means the production of (1) agricultural products; (2) livestock or livestock products; (3) milk or milk products; or (4) fruit or other horticultural products. It does not include processing, refining, or packaging the products, providing spraying or harvesting services, or producing timber, forest products, or poultry products.

Subp. 21. **Field Office Technical Guide.** "Field Office Technical Guide" has the meaning given in part 8400.0100, subpart 15.

Subp. 22. **Fish and Wildlife Service.** "Fish and Wildlife Service" means the Fish and Wildlife Service of the United States Department of the Interior.

Subp. 23. **Hydric soil.** "Hydric soil" means a soil in its natural undrained condition that is saturated at or near the surface or flooded frequently during much of the growing season, and that can support hydrophytic vegetation. A list of hydric soils may be found in the Field Office Technical Guide.

Subp. 24. **Hydrophytic vegetation.** "Hydrophytic vegetation"

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means herbaceous or woody plants that grow in water, in wet or saturated soils, or in soils that are at least periodically deficient in oxygen as a result of excess water.

Subp. 25. **Inherently unproductive.** "Inherently unproductive" means that the soil properties of available water capacity, bulk density, and pH in the uppermost 100 centimeters (39 inches) of a soil, are present so that an unfavorable rooting environment exists for agronomic crops.

Subp. 26. **Landowner.** "Landowner" means ~~a-Minnesota resident-who-owns-or-is-a-buyer-under-contract-for-deed,-of-land that-qualifies-as-a-family-farm,-a-family-farm-corporation,-or an-authorized-farm-corporation~~ an individual, family farm, family farm corporation as defined in Minnesota Statutes, section 500.24, subdivision 2, paragraph (c), or authorized farm corporation as defined in section 500.24, subdivision 2, paragraph (d), who either owns eligible land or is purchasing eligible land under a contract for deed.

Subp. 26a. **Lien.** "Lien" means a legal claim on property used as security for debt.

Subp. 27. **Local emergency.** "Local emergency" means an emergency declared under Minnesota Statutes, section 12.29. The commissioner, after consulting with the commissioner of natural resources, must concur with a decision to declare a local emergency that affects easement provisions.

Subp. 28. **Marginal agricultural land.** "Marginal agricultural land" means land with cropland soils that are inherently unproductive for agricultural crop production ~~and~~ or subject to significant potential soil productivity loss from erosion. The state board shall provide districts with a list of ~~soils~~ soil mapping units indicative of marginal agricultural land. Districts may ~~add-to-or-delete-soils-from~~ revise the list as necessary to reflect local soil characteristics. Changes must be approved by the state board.

Subp. 29. **Natural vegetation.** "Natural vegetation" means plant species including, but not limited to, grasses, trees, shrubs, or hydrophytic vegetation that form an area's

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noncultivated plant community, excluding the area immediately adjacent to buildings.

Subp. 30. **Nonproduction practice.** "Nonproduction practice" means a soil and water conservation practice that is installed or applied to control soil erosion or sedimentation, protect or improve water quality, or create or enhance wildlife habitat. Practices installed or applied primarily to bring land into production or to increase short-term productivity are not nonproduction practices.

Subp. 30a. **Pasture.** "Pasture" means a cultivated or interseeded area devoted to the production of forage consisting of introduced or native species and harvested by grazing. These areas are managed in a rotation of row crops or small grains and are considered to be in agricultural crop production. Areas of permanent pasture are excluded.

Subp. 30b. **Permanent cover.** "Permanent cover" means permanent vegetative cover as defined by part 8400.5600 [Emergency], subpart 1, and the water area created by a restored wetland.

Subp. 31. **Permanent pasture.** "Permanent pasture" means an area of forage species, harvested by grazing, that has not been cultivated within the last ten years. These areas are not considered to be in agricultural crop production.

Subp. 31a. **Proof of title.** "Proof of title" means a certified copy of a deed, updated abstract, attorney's opinion, or title insurance.

Subp. 31b. **Present value.** "Present value" means the value today of an amount that would have been received later, discounted at some discount or interest rate.

Subp. 32. **Protected water.** "Protected water" means water basins, water courses, and wetlands, as defined in Minnesota Statutes, section 105.37, on the inventory of public waters and wetlands under Minnesota Statutes, section 105.391, subdivision 1, and identified on a protected waters and wetlands inventory map available in the county auditor's office.

Subp. 33. **Range.** "Range" means an area supporting an

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understory or periodic cover of herbaceous or shrubby plants suitable for grazing that has not been cultivated within the last ten years.

Subp. 34. [See Repealer.]

Subp. 34a. **Restored wetland.** "Restored wetland" means a converted wetland restored through legal and deliberate activities to a condition that meets the definition of a wetland in subpart 43.

Subp. 35. **RIM reserve program.** "RIM reserve program" means the reinvest in Minnesota resources conservation reserve program established in ~~laws 1986, chapter 383, section 4~~ Minnesota Statutes, sections 40.41 to 40.45.

Subp. 36. [See Repealer.]

Subp. 37. **Screening committee.** "Screening committee" means a group established and chaired by a district, composed of representatives of private, state, and local organizations or clubs, and state and federal agencies with an interest in the RIM reserve program. A screening committee must include representatives of the Department of Natural Resources, the Pollution Control Agency, the Agricultural Stabilization and Conservation Service, the Fish and Wildlife Service, ~~and~~ the Soil Conservation Service, and the Department of Transportation if windbreaks are to be installed adjacent to highway rights-of-way.

Subp. 38. **Significant potential soil productivity loss.** "Significant potential soil productivity loss" means that soil productivity loss due to erosion may occur in a short time unless management measures are initiated to control soil erosion. The method of calculation combines the rating of a soil as a rooting environment with landscape characteristics that represent erosion potential.

Subp. 39. **Soil and water conservation practice.** "Soil and water conservation practice" means structural or vegetative practices applied to land to control soil erosion, sediment, or other water pollutants.

Subp. 40. **Soil Conservation Service.** "Soil Conservation

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Service" means the Soil Conservation Service of the United States Department of Agriculture.

Subp. 41. **Soil mapping unit.** "Soil mapping unit" means a kind of soil or combination of soils shown at the scale of mapping for the defined purposes and objectives of a soil survey.

Subp. 42. **State board.** "State board" means the State Soil and Water Conservation Board created under Minnesota Statutes, section 40.03. Effective October 1, 1987, "state board" means the Board of Water and Soil Resources created by Laws 1987, chapter 358.

Subp. 42a. **Supporting practice.** "Supporting practice" means a soil and water conservation practice installed to improve or protect the establishment of permanent cover.

Subp. 42b. **Title.** "Title" means a legal document by which a person claims ownership to a particular piece of property.

Subp. 42c. **Title insurance.** "Title insurance" means financial protection against loss or damage resulting from defects in a title to a particular tract of land.

Subp. 43. **Wetland.** "Wetland" means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, or that periodically does support, a predominance of hydrophytic vegetation typically adapted for life in saturated soil conditions. ~~Wetland does not include converted wetlands as defined by subpart 10 and prohibited by part 8400.4900 [Emergency].~~

Subp. 44. **Windbreak.** "Windbreak" means a strip or belt of trees, shrubs, or grass barriers at least six rows deep and within 300 feet of the right-of-way of a highway.

8400.3150 [Emergency] PURPOSE AND POLICY.

It is the purpose of the RIM Reserve Program to keep certain marginal agricultural land out of crop production to protect soil and water quality and support fish and wildlife habitat. It is state policy to encourage the retirement of marginal, highly erodable land, particularly land adjacent to

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public waters and drainage systems, from crop production and to reestablish a cover of perennial vegetation.

8400.3200 [Emergency] ESTABLISHING APPROVED ~~VEGETATIVE~~ PERMANENT COVER AND SUPPORTING PRACTICES.

The state board, in consultation with the districts and state and federal agencies, shall develop a list of practices that are eligible for RIM reserve program funds and a schedule of maximum rates. The list is contained in parts 8400.5200 to 8400.5600 [Emergency] and the schedule in part 8400.4300 [Emergency]. Changes to the list and schedule must be made under Minnesota Statutes, chapter 14.

8400.3300 [Emergency] CRITERIA FOR APPROVED PRACTICES.

Practices approved by the state board must be enduring in nature and have as their primary purpose the control of soil erosion or sedimentation, protection or improvement of water quality, or creation or improvement of fish and wildlife habitat. Practices cost-shared under this program must be designed for a minimum effective life of ~~ten~~ 20 years, be nonproduction practices, and have specifications providing for the use of plant species and construction techniques that provide quality fish and wildlife benefits.

8400.3400 [Emergency] ELIGIBLE LAND.

Land may be enrolled in the RIM reserve program if the land:

A. is marginal agricultural land~~, or~~;

B. is adjacent to marginal agricultural land that is being enrolled if enrollment of the adjacent land is beneficial to resource protection or necessary for efficient recording of the land description and if at least 50 percent of the total proposed acreage is marginal agricultural land;

C. consists of a converted wetland and cropland adjacent to the converted wetland to the extend of up to four acres of cropland for each acre of wetland restored; or

D. is land that with a windbreak would be beneficial to resource protection.

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In addition, enrolled land must have all of the following characteristics:

~~B.--was-in-agricultural-crop-production-or rotation-pasture~~ (1) a crop history for at least two years during the period 1981 to 1985;

~~C.~~ (2) was owned by the ~~applicant~~ landowner on January 1, 1985, or ~~for-an-application-made-on-or-after-January 1,-1988,~~ was owned by the ~~applicant~~ landowner, or a parent or other blood relative of the landowner, for at least three years before the date of application;

~~D.~~ (3) is at least five acres in size, except for a windbreak, or is a whole field as defined by the Agricultural Stabilization and Conservation Service;

~~E.~~ (4) is not currently set-aside, enrolled, or diverted under another federal or state government program including, but not limited to, federal conservation reserve, federal production adjustment set-aside, or state or federal water bank; and

~~F.~~ (5) is physically possible to crop~~,-and~~

~~G.--as-enrolled-does-not-exceed-20-percent-of-the landowner's-total-acreage-of-agricultural-property-in-the-state.~~

The enrolled land of a landowner may not exceed 20 percent of the landowner's total agricultural land acreage in the state, if the landowner owns at least 200 acres of agricultural land as defined by Minnesota Statutes, section 500.24, subdivision 2. If a landowner owns less than 200 acres of agricultural land, the amount that may be enrolled in the conservation reserve is:

(a) all agricultural land owned, if 20 acres or less; or

(b) if the total agricultural land owned is more than 20 acres but less than 200 acres, 20 acres plus ten percent of the balance of the agricultural land.

In selecting land for enrollment in the program, highest priority must be given to permanent easements that are consistent with the purposes stated in part 8400.3150.

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8400.3500 [Emergency] CONSERVATION EASEMENTS.

A district board may ~~acquire~~ act, on behalf of the commissioner and state, to acquire conservation easements on eligible land. An easement may be permanent or for ~~ten~~ not less than 20 years. By signing an ~~agreement~~ easement, a landowner agrees:

A. to convey to the state a conservation easement that is not subject to any prior title, lien, or encumbrance;

B. ~~to-seed-the-land-subject-to-the-conservation easement-contained-in-the-agreement,~~ to establish and maintain permanent cover ~~of-either-a-grass-legume-mixture-or-native grasses-for-the-term-of-the-easement,-at-seeding-rates~~ and other required practices on the land subject to the easement of a type determined by the ~~state-board,-or-to-plant-trees-or-install supporting-practices-required-due-to-site-conditions-for-soil and-water-conservation-or-wildlife-management~~ district board and described in parts 8400.5200 to 8400.5600 [Emergency];

C. to restore any converted wetland and to convey to the state a permanent easement for the restored wetland area;

D. that other noncrop or permanent pasture land supporting natural vegetation owned or leased as part of the same farm operation ~~during~~ at the ~~term-of-the-easement~~ time of application will not be converted to agricultural crop production or pasture as specified in part 8400.4900 [Emergency];

~~D.~~ E. to the enforcement of the easement terms and maintenance provisions in part 8400.4700 [Emergency];

~~E.~~ F. not to alter wildlife habitat and other natural features of the land, unless specifically approved by the ~~state board~~ commissioner;

~~F.~~ G. to refrain from agricultural crop production, unless specifically approved by the district for wildlife management purposes such as food plots;

~~G.~~ H. to prohibit grazing of livestock unless approved by the commissioner, after consultation with the commissioner of natural resources, in the case of severe drought or a local emergency;

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H. I. to prohibit spraying with chemicals or mowing, except as necessary to comply with state and county noxious weed control laws, for emergency control of pests necessary to protect public health, or to maintain permanent vegetative cover as approved by the district; and

I. J. to allow maintenance of public drainage systems. The activities must not damage the conservation purpose of the easement area. In addition, any authorization granted by the district commissioner must provide that the easement area be restored to the condition required by the terms of the conservation easement; and

K. that easement duration may be lengthened during its effective term through mutual agreement with the commissioners of agriculture and natural resources if they determine that the changes effectuate the purpose of the program or facilitate its administration.

8400.3600 [Emergency] ALLOCATION OF FUNDS.

The state board shall authorize allot funds to a district board to obligate funds based on the following factors:

A. the extent of marginal agricultural land in the district; and

B. the potential for restoring wetlands;

C. the need for windbreaks within 300 feet of a highway right-of-way; and

D. the need for soil erosion or sediment control, protection or improvement of water quality, or improvement of fish and wildlife habitat.

The state board may also consider the expressed interest of landowners and the readiness of the district board and cooperating groups and agencies to implement the program.

The state board may increase or decrease its obligation as necessary to maximize the use of funds among districts, and may require enrollment periods.

8400.3700 [Emergency] ADMINISTRATION OF FUNDS.

Following authorization to obligate funds from the state

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board, a district board is responsible for administration of the funds in accordance with Minnesota Statutes, chapter 40 and other applicable laws. The district board may make decisions concerning use of these funds in accordance with parts 8400.3000 to 8400.5600 [Emergency].

As a condition to participating in the program, the district board shall ensure compliance with the maintenance provisions of part 8400.4700 [Emergency] and Minnesota Statutes, chapter 40 by monitoring easements in a manner prescribed by the state board.

Before considering any requests from landowners, the district board shall establish a screening committee. Then, in cooperation with the screening committee, local priority areas must be established. In addition, administrative procedures necessary to efficiently implement the program must be developed. Priority areas must be based on the following factors:

A. the extent of high priority erosion or water quality problems in the district as outlined in the district comprehensive and annual plans;

B. the potential of the land for fish and wildlife production, reducing erosion, and protecting water quality;

C. advice of technical experts familiar with the district;

D. priorities as established by the district board in consultation with other members of the screening committee;

E. current programs administered by the Agricultural Stabilization and Conservation Service, the Fish and Wildlife Service, and the Department of Natural Resources; and

F. RIM reserve program funds available.

8400.3800 [Emergency] APPLICATION FOR FUNDS BY LANDOWNERS.

Landowners interested in participating in the RIM reserve program shall apply to the districts on forms provided by the state board and available from the district office. An application must be filled out in its entirety. A district

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technician is then responsible for making a determination of easement eligibility and a cost estimate to establish permanent ~~vegetative~~ cover ~~and~~, restore wetlands, and, if necessary, supporting practices. Actual determination of need and a cost estimate may be done by ~~district-approved~~ district board-approved representatives from other agencies. Additional information that may be required by the district board in its consideration of the application must be included.

8400.3900 [Emergency] LAND IN MORE THAN ONE DISTRICT.

If a request involves land in more than one district, application must be made to each district containing proposed land. The affected districts must cooperate to ensure a consistent and timely review of the proposed lands.

8400.4000 [Emergency] CRITERIA FOR DISTRICT BOARD REVIEW.

The criteria for district board review are listed in this part.

A. The applicant must be a district cooperator.

B. The practices needed to establish permanent ~~vegetative~~ cover or restore wetlands must be on the list of approved practices.

C. The primary purpose of the requested easement must be the control of soil erosion or sedimentation, the protection or improvement of water quality, or the improvement of fish and wildlife habitat. In cases where the primary purpose is questionable, the district board in cooperation with the screening committee shall make a determination of the acceptability of the application.

D. The requested easement and vegetative practices must be consistent with local plans and priorities.

E. The easement must be maintained by the landowner, who is responsible for operation and maintenance of vegetative and other supporting practices applied under this program.

F. The practice must comply with the technical requirements of the Field Office Technical Guide. Technical review must be completed by a district technician or Soil

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Conservation Service employee who has applicable job approval authority or by ~~district-approved~~ district board-approved representatives from other agencies.

8400.4100 [Emergency] DISTRICT APPROVAL.

After completion of a priority determination and cost estimate, the district board shall either approve or deny the application. If it is approved, the district board shall instruct the chair or acting chair to sign the application. Once it is signed, the application becomes an agreement between the ~~state~~ district and landowner and serves as the authorization to begin establishing ~~vegetative~~ permanent cover and, if required, other supporting practices. ~~In addition, district approval obligates payment for the easement and vegetative cover establishment, provided the landowner complies with parts 8400.3000 to 8400.5600 [Emergency].~~ Practices begun before district board approval are ineligible for financial assistance. The requirements for ~~vegetative~~ permanent cover establishment, wetland restoration, and maintenance must be specified in a plan prepared by the district technician or ~~district-approved~~ district board-approved representatives from other agencies. This permanent cover plan, once approved by the landowner and district board, becomes a part of the easement. Changes in any provisions of the plan are subject to review and approval by the landowner and district board. If an application is denied, the district board shall notify the landowner in writing within 30 days after district board action of the reason for denial of the application. ~~Changes in any provisions of the agreement are subject to review and approval by the district board.~~

After district board approval, a landowner may be required to provide proof of title of the land enrolled in the following manner:

A. for easements less than $5,000 in value, a certified copy of the deed may be required at landowner expense;

B. for easements between $5,000 and $20,000 in value,

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an updated abstract may be required at landowner expense;

C. for easements over $20,000 in value, title insurance may be obtained at state expense; and

D. an updated abstract may be required at landowner expense by the state regardless of easement value if questions arise during title review.

8400.4200 [Emergency] CONSERVATION EASEMENT PAYMENTS.

After approval of an application, easement documents provided by the state board must be completed by the district. Once the easement is signed by the landowner, remaining easement documents must be completed within 120 days. If not, the easement becomes null and void unless extended through mutual agreement of the parties. Also, upon signing, the landowner is obligated to comply with all easement conditions including the establishment of permanent cover as specified in parts 8400.3500 and 8400.4100 [Emergency]. Once ~~completed~~ recorded on the land title, the easement is considered conveyed. Upon conveyance, the ~~following~~ easement payments must be made: according to the following schedule.

~~A.--for-a-permanent-easement,-70-percent-of-the township-average-equalized-estimated-market-value-of agricultural-property-as-established-by-the-commissioner-of revenue-when-the-easement-is-conveyed;-and~~

~~B.--for-a-ten-year-easement,-90-percent-of-the-present value-of-the-average-of-the-acceptable-bids-for-the-Federal Conservation-Reserve-Program-in-the-relevant-geographic-area-and on-bids-made-immediately-before-the-easement-is-conveyed.--The commissioner-shall-establish,-at-least-annually,-the-discount rate-to-be-used-for-calculating-present-value.--If-federal-bid figures-have-not-been-determined-for-the-area-or-the-federal program-has-been-discontinued,-the-rate-must-be-determined-by the-state-board.~~

A. For limited duration easements not less than 20 years in length, payments are based on 70 percent of the present value of average cash rent for the county in which the parcel is

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located.

B. For permanent easements, payments are based on 100 percent of the present value of average cash rent for the county in which the parcel is located.

C. Parcels involving the restoration of converted wetlands or the establishment of a windbreak within 300 feet of a highway right-of-way must receive an additional payment of ten percent of the present value of average cash rent.

The commissioner shall establish, at least annually, the discount rate to be used for calculating present value. Average cash rent figures are based on an annual survey conducted by the Minnesota Department of Revenue in cooperation with local assessors.

Payments will be a one-time lump sum amount unless the landowner requests up to four equal annual installments.

8400.4300 [Emergency] ESTABLISHMENT OF ~~VEGETATIVE~~ PERMANENT COVER AND SUPPORTING PRACTICES.

Subpart 1. **Installation of practices.** Establishment of ~~**vegetative**~~ permanent cover and supporting practices must be monitored by the district board to ensure compliance with part 8400.4000 [Emergency], item F. Upon completion, a district technician shall certify whether or not the practice has been satisfactorily performed, including certification that the practice meets the requirements of part 8400.4000 [Emergency], item F. No certification may be made until all specifications have been satisfied. ~~Exceptions must be in accordance with subpart 4.~~ Upon certification of completion, the landowner shall contact the district for payment and present documentation of the costs incurred in the installation of the practice in the form of receipts or invoices.

Subp. 2. **In-kind services.** In-kind services provided by the landowner including, but not limited to, earthwork, seedbed preparation, and seeding, may be credited to the landowner's share of the total cost of the practice. The district board shall determine whether charges for in-kind services are

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practical and reasonable.

Subp. 3. **Actual cost differing from estimated cost.** If the actual cost of a practice exceeds the RIM reserve estimated cost, the district board may only authorize payment of the approved rate ~~unless an amendment to the vegetative cover agreement has been approved. Because of extreme circumstances including, but not limited to, weather or unforeseen geologic conditions, it may be desirable to increase the estimated cost or postpone the starting or completion date of the practice. These changes must be approved by the district board in advance of completion of the work with an amendment to the vegetative cover agreement covering the changes. Amendments may not be authorized for providing final payments in excess of the maximum rate established in subpart 7. Amendments may not be authorized after final approval of payment has been made on the original~~ agreement. If the actual cost is less than the ~~estimated cost~~ RIM reserve estimate, the district shall only authorize payment of the actual cost of the practice. The district board shall review the receipts or invoices provided by the landowner to determine the actual cost of the practice. If the district board determines that the claims are practical and reasonable, it shall authorize payment. Payments may not exceed the rates established in subpart ~~7~~ 4. If the district board determines that certain claims are not justified, it shall notify the landowner in writing of the unjustified claims within 30 days. The district board shall then authorize the issuance of a check for the justified claims.

~~Subp. 4. Partial payment. If weather, unanticipated circumstances beyond the control of the land occupier, or management considerations such as dormant seedings force postponement of certification of completion, the state board or its authorized representative may authorize a district board to issue a partial payment for the work that has been completed. The following conditions must be met before the state board or its authorized representative will consider authorizing a partial payment:~~

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~~A.--The anticipated completion date will not cause unreasonable delays in establishing vegetative cover.~~

~~B.--The completed work meets the requirements of part 8400.4000 {Emergency}, item F.~~

~~C.--The state board's authorized representative must review the work and concur in the payment decision.~~

~~Subp. 5.--Payment conditions.--If the state board or its authorized representative authorizes a partial payment under subpart 4, the following conditions apply.~~

~~A.--Payment rates must comply with subpart 7.~~

~~B.--The balance of the project must be paid by the district board upon the satisfactory completion of the total project.~~

~~C.--Expenses incurred in correcting damage caused to the project by virtue of its incompletion must be borne by the landowner.~~

~~D.--Landowners receiving partial payments must complete the project within a time considered reasonable by the district board.~~

~~E.--Landowners not completing partially paid projects are in violation of part 8400.4700 {Emergency} and must be directed to return the amount of financial assistance received plus interest.~~

~~F.--Partial payment authorizations must not be construed as precedent setting.--A request will be considered by the state board or its authorized representative on its merits.~~

~~Subp. 6.--Denial.--If the state board or its authorized representative denies a request for partial payment under subpart 4, the district board must be notified within 30 days of the reasons for denial of the request.~~

Subp. ~~7.~~ 4. **Payments for establishment of vegetative permanent cover.** After the easement has been conveyed and certification by an assigned district technician that permanent vegetative cover is established, the district board shall notify the state board to make the following payments to the landowner:

A. to establish the permanent cover or supporting

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practices required by the ~~agreement,-the-actual-cost-up-to~~ permanent cover plan, up to 75 percent of the total eligible cost not to exceed $75 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed $100 per acre for permanent easements; and

B. for the cost of planting trees required by the ~~agreement,-the-actual-cost-up-to-$75-per-acre;~~ permanent cover plan, up to 75 percent of total eligible cost not to exceed $200 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed $300 per acre for permanent easements.

~~Payments-for-establishing-permanent-cover,-trees,-or-other improvements-are-limited-to-the-actual-cost,-up-to-$75-per acre.~~ Supporting practices must be required by the ~~vegetative~~ permanent cover ~~agreement~~ plan. These include practices or components of practices listed in parts 8400.5200 to 8400.5600 [Emergency]. Supporting practices must be installed in conjunction with permanent cover ~~or-trees~~. If trees are combined with ~~a~~ another cover practice, payments may increase to ~~a~~ the combined ~~actual-cost-up-to-$150-per-acre~~ total eligible cost specified in items A and B, or up to ~~$75~~ $100 per acre ~~each~~ for ~~trees-and~~ cover and $300 per acre for trees if a permanent easement and $75 per acre for cover and $200 per acre for trees if a limited duration easement.

RIM reserve payments may be supplemented by funds from other programs or organizations, including sportsmen's groups or state or federal cost-share programs. Requirements for supplementing payments must be determined by the contributing agency or group.

8400.4400 [Emergency] MAXIMUM PAYMENT.

The state board may not pay more than $50,000 ~~annually~~ to a landowner for ~~the-landowner's-vegetative~~ permanent cover ~~agreements~~ and conservation easements. The district shall record the easement document with the county recorder.

8400.4500 [Emergency] DISTRICT RECORDS.

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The district shall maintain a current ledger of ~~vegetative cover-agreements-and~~ easements on forms provided by the state board. The ledger must specify the landowners with whom the district has developed ~~agreements~~ easements, the soil mapping units of enrolled land, the ~~vegetative~~ permanent cover and supporting practices involved, the status of ~~vegetative~~ permanent cover establishment, the total of funds obligated and spent, the size and type of easements, and their effective date. Recording must be done, to the extent possible, in a manner compatible with the needs of cooperating agencies and groups. In addition, the location of easements must be recorded on base maps provided by the Land Management Information Center of the State Planning Agency to facilitate entry into a state data base.

8400.4600 [Emergency] EASEMENT RENEWAL.

When a ~~ten-year~~ conservation easement expires, a new permanent or ~~ten-year~~ limited term conservation easement may be acquired by written concurrence of the ~~district~~ commissioner and the landowner. The district may recommend that the state board adjust payment rates as a result of renewing a ten-year conservation easement only after examining the condition of the established cover, supporting practices, and land values.

8400.4700 [Emergency] MAINTENANCE.

A landowner is responsible for operation and maintenance of ~~vegetative~~ permanent cover and supporting practices applied under this program and ensuring that easement restrictions in parts 8400.3500 [Emergency] and 8400.4900 [Emergency] are followed to ensure that the easements conservation objective is met and the effective life of ~~ten~~ 20 or more years is achieved.

Should the landowner fail to install or maintain the practices or comply with easement restrictions during their effective life, the landowner may be subject to:

A. damages up to the amount of financial assistance received for ~~practice-installation~~ permanent cover, supporting practices, and easement payment plus interest accrued from the

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date of each nonmaintenance determination;

B. a mandatory court-imposed injunction; or

C. other actions directed at correcting the maintenance violation. The district board, in consultation with the state board and legal counsel, shall determine how maintenance violations must be corrected. Easements remain in effect even if maintenance violations have occurred.

The landowner is not liable for financial assistance received if the failure was caused by reasons beyond the landowner's control; in those instances, the district board may authorize payment for the repair. Payments for repair must comply with part 8400.4300 [Emergency]. In no case may a district board provide financial assistance to a landowner for the reapplication of ~~vegetative~~ permanent cover or supporting practices that were removed or altered by the landowner during their effective life or failed due to improper maintenance.

8400.4800 [Emergency] MONITORING.

The state board may require reports from the district to monitor the progress of the RIM reserve program and the use of funds. The reports must be on forms provided by the state board.

8400.4900 [Emergency] NONCROPLAND CONVERSION.

~~From approval of vegetative cover agreements until the end of the easement,~~ Land supporting natural vegetation, including, but not limited to, trees, shrubs, permanent pasture, range, or wetland, at the time of easement application must not be converted to cropland. This restriction applies to all land owned or leased as part of the landowner's farm operation.

8400.5000 [Emergency] APPEALS.

If a landowner feels unfairly treated, the landowner may request that the district board review its decision. Should the landowner and the district board reach an impasse, the landowner may petition in writing for a hearing before the state board. If it grants the hearing, which must be informal, the state board or a referee appointed by it shall hear all testimony

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offered, and shall accept written testimony for ten days after the hearing. The referee, if one is used, shall report the findings and recommendation to the state board, which shall within 60 days of the hearing date make its decision on the appeal, upholding, reversing, or amending the decision of the district board.

8400.5100 [Emergency] VARIANCES.

If a district board feels that a particular requirement of part 8400.3400 [Emergency] prevents a RIM reserve program application from being funded, a request for a variance may be filed with the director of the state board. The request must be in writing and contain:

A. the name and address of the district board making the request and the signature of the district chair;

B. the nature of the variance being sought, including an identification of the applicable rule from which the variance is sought, the time period for which it is sought, and the reason for seeking the variance;

C. a statement of alternatives for dealing with the funding of the affected project if the variance is not granted; and

D. a statement of the effects on applicable natural resources and the public if the variance is granted.

Variance requests must be submitted to the director of the state board at least 30 days before the state board meeting at which the variance is requested to be heard. Within 45 days after the meeting, the state board must approve or deny the variance request and provide written notification of the decision to the applicant. A variance must not be granted if it is in conflict with any statute. The state board may grant a variance upon conditions it prescribes.

If a variance has been granted by the state board, the district board holding the variance may file with the state board at any time a written request for modification or amendment of the variance. The request for modification or

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amendment, and the state board's consideration of the request, must comply with this part.

8400.5200 [Emergency] APPROVED PRACTICE: STRUCTURES.

Subpart 1. **Definition.** For the purpose of this part, "structure" includes, but is not limited to, floodwater retarding dams, levees, or drain tile plugs designed to provide temporary storage of floodwater, control the release rate of water providing downstream channel stability, impound water, or restore or create wetland areas. ~~Structures are supporting practices.~~

Subp. 2. **Purpose.** The purpose of structures is to permit the establishment of vegetative cover, control soil erosion, protect or improve water quality, or create or improve wildlife habitat. An erosion control structure may provide multiple benefits including, but not limited to, recreation, flood control, and channel stability.

Subp. 3. **Applicability.** Structures may be used on enrolled lands where they are necessary to permit establishment of vegetative cover, for the control of soil erosion, water quality protection or improvement, or creation or enhancement of wildlife habitat. Structures may also be installed on nonenrolled lands if necessary to enhance or protect enrolled lands.

Subp. 4. **Policies.** Funding is authorized:

A. only for the construction of structures that provide for reduction of soil erosion, water quality protection or improvement, or creation or enhancement of wildlife habitat;

B. ~~for permanent fencing of a structure as determined by the district board;~~

~~C.~~ for tree and shrub plantings adjacent to the structure and seeding necessary to stabilize the structure and adjacent critical areas, including, when possible, the use of those species that provide quality wildlife habitat;

~~B.~~ C. for structures that provide multiple benefits if the primary benefit is soil erosion control, water quality

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protection or improvement, or creation or improvement of wildlife habitat; and

~~E.~~ D. for temporary materials and seedings necessary to properly stabilize the structure during construction.

8400.5300 [Emergency] APPROVED PRACTICE: DIVERSIONS.

Subpart 1. **Definition.** For purposes of this part, "diversion" means a channel with a supporting ridge on the lower side constructed across the slope. ~~Diversions are supporting practices.~~

Subp. 2. **Purpose.** The purpose of a diversion is to permit the establishment of vegetative cover or divert water away from erosive areas or areas that pose a threat to water quality to areas where it can be used or disposed of safely. Diversions may provide additional benefit to wildlife.

Subp. 3. **Applicability.** A diversion may be used where:

A. runoff from higher areas is eroding enrolled lands or is needed to establish vegetative cover; or

B. surface and shallow subsurface flow is damaging sloping enrolled lands or contaminating ground or surface water.

Diversions may be installed on nonenrolled lands if necessary to enhance or protect enrolled lands.

Subp. 4. **Policies.** Funding is authorized:

A. for tile systems necessary for the establishment and operation of diversions;

B. for construction necessary to properly establish diversions including earthwork, materials, and seedings; and

C. for temporary materials and seedings necessary to properly stabilize diversions during construction~~; and~~

~~B. for permanent fencing of diversions as determined by the district board.~~

8400.5400 [Emergency] APPROVED PRACTICE: STORMWATER CONTROL SYSTEMS.

Subpart 1. **Definition.** For purposes of this part, "stormwater control system" means a practice or system of practices including, but not limited to, grassed waterways and

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grade stabilization structures installed to convey storm runoff to a constructed or natural outlet in a nonerosive manner. This practice does not apply when the primary purpose is drainage to expand or improve crop production or making the cropping system more convenient. ~~Stormwater control systems are supporting practices.~~

Subp. 2. **Purpose.** The purpose of a stormwater control system is to permit the establishment of vegetative cover, provide a means of regulating or removing runoff to control erosion, or protect or improve water quality. Additional benefit may be provided through creation of wildlife habitat.

Subp. 3. **Applicability.** A stormwater control system may be used on enrolled lands by using vegetative or structural measures for control of erosion or protection or improvement of water quality. Stormwater control systems may also be installed on nonenrolled lands if necessary to protect enrolled lands.

Subp. 4. **Policies.** Funding is authorized:

A. for the construction of practices required in a complete stormwater control system, including, but not limited to, a lined waterway or outlet, detention ponds, permanent sod cover, and permanent vegetation including trees, shrubs, and grasses;

B. for tile systems necessary for the establishment and operation of stormwater control systems; and

C. for temporary materials and seedings necessary to properly stabilize a stormwater control system during construction~~; and~~

~~D. for permanent fencing of stormwater control systems as determined by the district board.~~

8400.5500 [Emergency] APPROVED PRACTICE: ~~FIELD~~ WINDBREAKS.

Subpart 1. **Definitions.** For purposes of this part, "~~field~~ windbreak" means a strip or belt of trees ~~or~~, shrubs, or grass barriers established within ~~or~~ a field, adjacent to a field, or within 300 feet of a highway right-of-way.

Subp. 2. **Purpose.** The primary purpose of a ~~field~~

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windbreak is to create wildlife habitat or reduce wind erosion. Additional benefits may be ~~the creation of wildlife habitat, increased moisture conservation by~~ controlling snow deposition, and beautification and enhancement of the landscape.

Subp. 3. **Applicability.** ~~Field~~ Windbreaks may be used in or around ~~open~~ fields or adjacent to highway rights-of-way that need ~~protection against wind erosion. Additional benefits may be realized from the creation of~~ additional wildlife habitat.

Subp. 4. **Policies.** Funding is authorized:

A. for ~~field~~ windbreaks if the inter-windbreak or non-windbreak area is established in permanent ~~vegetative~~ cover at the time the windbreak is established; and

B. for site preparation, planting materials, planting, chemicals for weed control, and other applicable costs necessary to establish a ~~field~~ windbreak.

The landowner is responsible for controlling competitive vegetation for two years following planting and must bear the cost of control. Tree planting must not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage systems.

8400.5600 [Emergency] APPROVED PRACTICE: ESTABLISHMENT OF PERMANENT VEGETATIVE COVER.

Subpart 1. **Definition.** For purposes of this part, "permanent vegetative cover" means planting permanent vegetation on enrolled lands, including trees, shrubs, vines, grasses, and legumes.

Subp. 2. **Purpose.** The purpose of permanent vegetative cover is to control soil erosion, protect or improve water quality, or create or improve wildlife habitat.

Subp. 3. **Applicability.** Permanent vegetative cover may be used on enrolled lands if vegetation is needed to control soil erosion, protect or improve water quality, or create or improve wildlife habitat.

Subp. 4. **Policies.** Funding is authorized for:

A. earthwork, materials, seed, and seedings, and

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other associated costs necessary to stabilize the area; and

B. temporary materials and seedings necessary to stabilize the area during construction; ~~and~~

~~C. permanent fencing of the area as determined by the district board.~~

Subp. 5. **Conflicts.** Tree planting must not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage systems.

REPEALER. Part 8400.3100 [Emergency], subparts 34 and 36, are repealed.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Emergency Rules Relating to the Reinvest in Minnesota Program

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapter 8400

The attached rules are approved for publication in the State Register

Craig E. Lindeke
Senior Assistant Revisor

Department of Agriculture

In the Matter of the Proposed Adoption of Emergency Rules of the Department of Agriculture Governing the Reinvest in Minnesota Conservation Reserve Program

NOTICE OF INTENT TO ADOPT EMERGENCY RULES

Notice is hereby given that the Minnesota Department of Agriculture intends to adopt the above entitled emergency rules. The statutory authority to adopt the emergency rule is contained in Minnesota Statutes, section 40.45. The department, in adopting the rule, is following the procedures set forth in the Administrative Procedures Act for adopting emergency rules in Minnesota Statutes, sections 14.29-14.36.

All persons have 25 days after publication to submit data and views on the proposed emergency rules or any part or subpart of the rule in writing. Any comments must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, Minnesota 55107, (612) 296-6906.

A copy of the proposed rule is attached to this notice. A free copy of the proposed emergency rule is available by contacting Ms. Milligan.

The proposed rules may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed emergency rule as noticed.

Upon adoption of the emergency rules by the department, the emergency rules as adopted and its supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any persons may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the adopted rules, must submit a written request to Ms. Milligan.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the department gives notice of continuation in accordance with Minnesota Statutes, section 14.35.

STATE OF MINNESOTA

Date: 2-1-82

Jim Nichols
Commissioner of Agriculture

In the Matter of the Proposed Adoption of Emergency Rules of the Department of Agriculture Governing the Reinvest in Minnesota Conservation Reserve Program

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT AN EMERGENCY RULE AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Carol Milligan, being sworn, says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. State § 14.14, subd. 1a, and 14.22 or 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list is accurate, complete and current as of this 22nd day of July, 1987.

That on the 22nd day of July, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Carol Milligan
Carol Milligan
Management Analyst

DIANE M. WINDHAM
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES NOVEMBER 1, 1990

Subscribed and sworn to before me this 22nd day of July, 1987.

Diane M. Windham

Emergency Rules

Proposed Emergency Rules
According to Minn. Stat. of 1984, §§ 14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

1) that a free copy of the proposed emergency rule is available upon request from the agency;
2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules
Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§ 14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules
Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

Department of Agriculture

Proposed Emergency Rules Relating to the Reinvest in Minnesota Program

Notice of Intent to Adopt Emergency Rules

Notice is hereby given that the Minnesota Department of Agriculture intends to adopt the above entitled emergency rules. The statutory authority to adopt the emergency rule is contained in Minnesota Statutes, section 40.45. The department, in adopting the rule, is following the procedures set forth in the Administrative Procedures Act for adopting emergency rules in Minnesota Statutes, sections 14.29-14.36.

All persons have 25 days after publication to submit data and views on the proposed emergency rules or any part or subpart of the rule in writing. Any comments must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, Minnesota 55107, (612) 296-6906.

A copy of the proposed rule is attached to this notice. A free copy of the proposed emergency rule is available by contacting Ms. Milligan.

The proposed rules may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed emergency rule as noticed.

Upon adoption of the emergency rules by the department, the emergency rules as adopted and its supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any persons may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the adopted rules, must submit a written request to Ms. Milligan.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the department gives notice of continuation in accordance with Minnesota Statutes, section 14.35.

Dated: 1 July 1987

Jim Nichols
Commissioner of Agriculture

Rules as Proposed

SOIL AND WATER CONSERVATION BOARD RIM RESERVE PROGRAM

8400.3000 [Emergency] AUTHORITY.

Minnesota Statutes, chapter 40, authorizes the ~~state board~~ commissioner, in cooperation with the state board, districts, state and local private groups, and state and federal agencies, to ~~administer~~ implement a program of retiring marginal agricultural land from crop production and establishing on those lands permanent vegetative cover, restoring converted wetlands, or establishing windbreaks adjacent to highways. Parts 8400.3000 to 8400.5600 [Emergency] provide procedures and criteria to be followed by the state board in administering the program and allocating funds to districts ~~and~~. Standards and guidelines that the district boards ~~shall~~ must use in allocating funds to landowners are also provided.

8400.3100 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 8400.3000 to 8400.5600 [Emergency], the definitions in this part, in addition to those in Minnesota Statutes, chapter 40, apply.

Subp. 1a. **Abstract.** "Abstract" means a written summary of the title history of a particular tract of land.

Subp. 2. **Agricultural crop production.** "Agricultural crop production" means an agricultural activity devoted to the production of horticultural, row, close grown, ~~rotation~~ pasture, or introduced hayland crops. "Production" includes, but is not limited to, tillage, planting, or harvesting operations.

Subp. 3. **Agricultural ~~property~~ land.** "Agricultural ~~property~~ land" means land ~~devoted to~~ used for farming~~, exclusive of buildings~~.

Subp. 4. **Agricultural Stabilization and Conservation Service.** "Agricultural Stabilization and Conservation Service" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

Subp. 5. **Annual plan.** "Annual plan" means a plan prepared by the district under Minnesota Statutes, section 40.07, subdivision 9, and according to the most recent version of the Guidelines for Soil and Water Conservation District Comprehensive and Annual Plans published by the state board. That publication is subject to frequent change, is available at the State Law Library, and is incorporated by reference.

Subp. 6. **Approved practice.** "Approved practice" means a soil and water conservation practice that qualifies for RIM reserve program funding and that has been approved by the state board.

Subp. 7. **Authorized farm corporation.** "Authorized farm corporation" means a corporation meeting the following standards:

A. it has no more than five shareholders;

B. its shareholders, other than any estate, are natural persons;

C. it has no more than one class of shares;

D. its revenue from rent, royalties, dividends, interest, and annuities does not exceed 20 percent of its gross receipts; and

E. shareholders holding a majority of its shares reside on the farm or are actively engaged in farming.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subp. 9. **Conservation easement, easement.** "Conservation easement" or "easement" means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include keeping or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property. Under the RIM reserve program, public access is controlled by the landowner.

Subp. 10. **Converted wetland.** "Converted wetland" means a wetland that has been legally drained, dredged, filled, leveled, or otherwise sufficiently manipulated ~~since approval of an easement~~ to render the land suitable for agricultural crop production.

Subp. 10a. **Crop history.** "Crop history" means a sequence of agricultural crop production that includes at least one of the following activities on an annual basis: tillage, planting, or harvesting.

Subp. 11. **Cropland.** "Cropland" means an area devoted to agricultural crop production.

Subp. 11a. **Deed.** "Deed" means a legal document by which title to property is transferred.

Subp. 12. **District.** "District" means a soil and water conservation district organized under Minnesota Statutes, chapter 40.

Subp. 13. **District board.** "District board" means the five supervisors of a district authorized to carry out the functions of the district.

Subp. 14. **District cooperator.** "District cooperator" means a landowner who has requested the assistance of a district in controlling conservation problems. The request must be formalized by the signing of a district cooperator's agreement ~~on a form provided by the state board~~ and approved by the district board.

Subp. 15. **District technician.** "District technician" means a district employee or other nonfederal employee assigned to the district who has expertise in the design and application of soil and water conservation practices.

Subp. 15a. **Encumbrance.** "Encumbrance" means anything that affects or limits the title to a property, such as outstanding mortgages, easement rights, or unpaid back taxes.

Subp. 16. **Enduring practice.** "Enduring practice" means a soil and water conservation practice that is designed for an effective life of ~~ten~~ 20 years or more.

Subp. 17. **Family farm.** "Family farm" means an unincorporated farming unit owned by one or more persons residing on the farm or actively engaging in farming.

Subp. 18. **Family farm corporation.** "Family farm corporation" means a corporation founded to farm and to own agricultural land, the majority of the voting stock of which is held by and the majority of the stockholders of which are persons or the spouses of persons related to each other within the third degree of kindred according to the rules of civil law, at least one of the stockholders of which is residing on or actively operating the farm, and none of whose stockholders are corporations. A family farm corporation does not cease to qualify because of a devise or bequest of shares of voting stock.

Subp. 19. **Farm operation.** "Farm operation" means property owned or leased by the landowner that is associated with farming.

Subp. 20. **Farming.** "Farming" means the production of (1) agricultural products; (2) livestock or livestock products; (3) milk or milk products; or (4) fruit or other horticultural products. It does not include processing, refining, or packaging the products, providing spraying or harvesting services, or producing timber, forest products, or poultry products.

Subp. 21. **Field Office Technical Guide.** "Field Office Technical Guide" has the meaning given in part 8400.0100, subpart 15.

Subp. 22. **Fish and Wildlife Service.** "Fish and Wildlife Service" means the Fish and Wildlife Service of the United States Department of the Interior.

Subp. 23. **Hydric soil.** "Hydric soil" means a soil in its natural undrained condition that is saturated at or near the surface or flooded frequently during much of the growing season, and that can support hydrophytic vegetation. A list of hydric soils may be found in the Field Office Technical Guide.

Subp. 24. **Hydrophytic vegetation.** "Hydrophytic vegetation" means herbaceous or woody plants that grow in water, in wet or saturated soils, or in soils that are at least periodically deficient in oxygen as a result of excess water.

Subp. 25. **Inherently unproductive.** "Inherently unproductive" means that the soil properties of available water capacity, bulk density, and pH in the uppermost 100 centimeters (39 inches) of a soil, are present so that an unfavorable rooting environment exists for agronomic crops.

Subp. 26. **Landowner.** "Landowner" means ~~a Minnesota resident who owns or is a buyer under contract for deed, of land that qualifies as a family farm, a family farm corporation, or an authorized farm corporation~~ an individual, family farm, family farm corporation as defined in Minnesota Statutes, section 500.24, subdivision 2, paragraph (c), or authorized farm corporation as defined in section 500.24, subdivision 2, paragraph (d), who either owns eligible land or is purchasing eligible land under a contract for deed.

Subp. 26a. **Lien.** "Lien" means a legal claim on property used as security for debt.

Subp. 27. **Local emergency.** "Local emergency" means an emergency declared under Minnesota Statutes, section 12.29. The commissioner, after consulting with the commissioner of natural resources, must concur with a decision to declare a local emergency that affects easement provisions.

Subp. 28. **Marginal agricultural land.** "Marginal agricultural land" means land with cropland soils that are inherently unproductive for agricultural crop production ~~and~~ or subject to significant potential soil productivity loss from erosion. The state board shall provide districts with a list of ~~soils~~ soil mapping units indicative of marginal agricultural land. Districts may ~~add to or delete soils from~~ revise the list as necessary to reflect local soil characteristics. Changes must be approved by the state board.

Subp. 29. **Natural vegetation.** "Natural vegetation" means plant species including, but not limited to, grasses, trees, shrubs, or hydrophytic vegetation that form an area's noncultivated plant community, excluding the area immediately adjacent to buildings.

Subp. 30. **Nonproduction practice.** "Nonproduction practice" means a soil and water conservation practice that is installed or applied to control soil erosion or sedimentation, protect or improve water quality, or create or enhance wildlife habitat. Practices installed or applied primarily to bring land into production or to increase short-term productivity are not nonproduction practices.

Subp. 30a. **Pasture.** "Pasture" means a cultivated or interseeded area devoted to the production of forage consisting of introduced or native species and harvested by grazing. These areas are managed in a rotation of row crops or small grains and are considered to be in agricultural crop production. Areas of permanent pasture are excluded.

Subp. 30b. **Permanent cover.** "Permanent cover" means permanent vegetative cover as defined by part 8400.5600 [Emergency], subpart 1, and the water area created by a restored wetland.

Subp. 31. **Permanent pasture.** "Permanent pasture" means an area of forage species, harvested by grazing, that has not been cultivated within the last ten years. These areas are not considered to be in agricultural crop production.

Subp. 31a. **Proof of title.** "Proof of title" means a certified copy of a deed, updated abstract, attorney's opinion, or title insurance.

Subp. 31b. **Present value.** "Present value" means the value today of an amount that would have been received later, discounted at some discount or interest rate.

Subp. 32. **Protected water.** "Protected water" means water basins, water courses, and wetlands, as defined in Minnesota Statutes,

section 105.37, on the inventory of public waters and wetlands under Minnesota Statutes, section 105.391, subdivision 1, and identified on a protected waters and wetlands inventory map available in the county auditor's office.

Subp. 33. **Range.** "Range" means an area supporting an understory or periodic cover of herbaceous or shrubby plants suitable for grazing that has not been cultivated within the last ten years.

Subp. 34. [See Repealer.]

Subp. 34a. **Restored wetland.** "Restored wetland" means a converted wetland restored through legal and deliberate activities to a condition that meets the definition of a wetland in subpart 43.

Subp. 35. **RIM reserve program.** "RIM reserve program" means the reinvest in Minnesota resources conservation reserve program established in ~~Laws 1986, chapter 383, section 4~~ Minnesota Statutes, sections 40.41 to 40.45.

Subp. 36. [See Repealer.]

Subp. 37. **Screening committee.** "Screening committee" means a group established and chaired by a district, composed of representatives of private, state, and local organizations or clubs, and state and federal agencies with an interest in the RIM reserve program. A screening committee must include representatives of the Department of Natural Resources, the Pollution Control Agency, the Agricultural Stabilization and Conservation Service, the Fish and Wildlife Service, ~~and~~ the Soil Conservation Service, and the Department of Transportation if windbreaks are to be installed adjacent to highway rights-of-way.

Subp. 38. **Significant potential soil productivity loss.** "Significant potential soil productivity loss" means that soil productivity loss due to erosion may occur in a short time unless management measures are initiated to control soil erosion. The method of calculation combines the rating of a soil as a rooting environment with landscape characteristics that represent erosion potential.

Subp. 39. **Soil and water conservation practice.** "Soil and water conservation practice" means structural or vegetative practices applied to land to control soil erosion, sediment, or other water pollutants.

Subp. 40. **Soil Conservation Service.** "Soil Conservation Service" means the Soil Conservation Service of the United States Department of Agriculture.

Subp. 41. **Soil mapping unit.** "Soil mapping unit" means a kind of soil or combination of soils shown at the scale of mapping for the defined purposes and objectives of a soil survey.

Subp. 42. **State board.** "State board" means the State Soil and Water Conservation Board created under Minnesota Statutes, section 40.03. Effective October 1, 1987, "state board" means the Board of Water and Soil Resources created by Laws 1987, chapter 358.

Subp. 42a. **Supporting practice.** "Supporting practice" means a soil and water conservation practice installed to improve or protect the establishment of permanent cover.

Subp. 42b. **Title.** "Title" means a legal document by which a person claims ownership to a particular piece of property.

Subp. 42c. **Title insurance.** "Title insurance" means financial protection against loss or damage resulting from defects in a title to a particular tract of land.

Subp. 43. **Wetland.** "Wetland" means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, or that periodically does support, a predominance of hydrophytic vegetation typically adapted for life in saturated soil conditions. ~~Wetland does not include converted wetlands as defined by subpart 10 and prohibited by part 8400.4900 [Emergency].~~

Subp. 44. **Windbreak.** "Windbreak" means a strip or belt of trees, shrubs, or grass barriers at least six rows deep and within 300 feet of the right-of-way of a highway.

8400.3150 [Emergency] PURPOSE AND POLICY.

It is the purpose of the RIM Reserve Program to keep certain marginal agricultural land out of crop production to protect soil and water quality and support fish and wildlife habitat. It is state policy to encourage the retirement of marginal, highly erodable land, particularly land adjacent to public waters and drainage systems, from crop production and to reestablish a cover of perennial vegetation.

8400.3200 [Emergency] ESTABLISHING APPROVED ~~VEGETATIVE~~ PERMANENT COVER AND SUPPORTING PRACTICES.

The state board, in consultation with the districts and state and federal agencies, shall develop a list of practices that are eligible for RIM reserve program funds and a schedule of maximum rates. The list is contained in parts 8400.5200 to 8400.5600 [Emergency] and the schedule in part 8400.4300 [Emergency]. Changes to the list and schedule must be made under Minnesota Statutes, chapter 14.

8400.3300 [Emergency] CRITERIA FOR APPROVED PRACTICES.

Practices approved by the state board must be enduring in nature and have as their primary purpose the control of soil erosion or sedimentation, protection or improvement of water quality, or creation or improvement of fish and wildlife habitat. Practices cost-shared under this program must be designed for a minimum effective life of ~~ten~~ 20 years, be nonproduction practices, and have specifications providing for the use of plant species and construction techniques that provide quality fish and wildlife benefits.

8400.3400 [Emergency] ELIGIBLE LAND.

Land may be enrolled in the RIM reserve program if the land:

A. is marginal agricultural land~~, or~~;

B. is adjacent to marginal agricultural land that is being enrolled if enrollment of the adjacent land is beneficial to resource protection or necessary for efficient recording of the land description and if at least 50 percent of the total proposed acreage is marginal agricultural land;

C. consists of a converted wetland and cropland adjacent to the converted wetland to the extend of up to four acres of cropland for each acre of wetland restored; or

D. is land that with a windbreak would be beneficial to resource protection.

In addition, enrolled land must have all of the following characteristics:

~~B. was in agricultural crop production or rotation pasture~~ (1) a crop history for at least two years during the period 1981 to 1985;

~~C.~~ (2) was owned by the ~~applicant~~ landowner on January 1, 1985, or ~~for an application made on or after January 1, 1988,~~ was owned by the ~~applicant~~ landowner, or a parent or other blood relative of the landowner, for at least three years before the date of application;

~~D.~~ (3) is at least five acres in size, except for a windbreak, or is a whole field as defined by the Agricultural Stabilization and Conservation Service;

~~E.~~ (4) is not currently set-aside, enrolled, or diverted under another federal or state government program including, but not limited to, federal conservation reserve, federal production adjustment set-aside, or state or federal water bank; and

~~F.~~ (5) is physically possible to crop~~; and~~

~~G. as enrolled does not exceed 20 percent of the landowner's total acreage of agricultural property in the state~~.

The enrolled land of a landowner may not exceed 20 percent of the landowner's total agricultural land acreage in the state, if the landowner owns at least 200 acres of agricultural land as defined by Minnesota Statutes, section 500.24, subdivision 2. If a landowner owns less than 200 acres of agricultural land, the amount that may be enrolled in the conservation reserve is:

(a) all agricultural land owned, if 20 acres or less; or

(b) if the total agricultural land owned is more than 20 acres but less than 200 acres, 20 acres plus ten percent of the balance of the agricultural land.

In selecting land for enrollment in the program, highest priority must be given to permanent easements that are consistent with the purposes stated in part 8400.3150.

8400.3500 [Emergency] CONSERVATION EASEMENTS.

A district board may ~~acquire~~ act, on behalf of the commissioner and state, to acquire conservation easements on eligible land. An easement may be permanent or for ~~ten~~ not less than 20 years. By signing an ~~agreement~~ easement, a landowner agrees:

A. to convey to the state a conservation easement that is not subject to any prior title, lien, or encumbrance;

B. ~~to seed the land subject to the conservation easement contained in the agreement,~~ to establish and maintain permanent cover ~~of either a grass-legume mixture or native grasses for the term of the easement, at seeding rates~~ and other required practices on the land subject to the easement of a type determined by the ~~state board, or to plant trees or install supporting practices required due to site conditions for soil and water conservation or wildlife management~~ district board and described in parts 8400.5200 to 8400.5600 [Emergency];

C. to restore any converted wetland and to convey to the state a permanent easement for the restored wetland area;

D. that other noncrop or permanent pasture land supporting natural vegetation owned or leased as part of the same farm operation ~~during~~ at the ~~term of the easement~~ time of application will not be converted to agricultural crop production or pasture as specified in part 8400.4900 [Emergency];

~~D.~~ E. to the enforcement of the easement terms and maintenance provisions in part 8400.4700 [Emergency];

~~E.~~ F. not to alter wildlife habitat and other natural features of the land, unless specifically approved by the ~~state board~~ commissioner;

~~F.~~ G. to refrain from agricultural crop production, unless specifically approved by the district for wildlife management purposes such as food plots;

~~G.~~ H. to prohibit grazing of livestock unless approved by the commissioner, after consultation with the commissioner of natural resources, in the case of severe drought or a local emergency;

~~H.~~ I. to prohibit spraying with chemicals or mowing, except as necessary to comply with state and county noxious weed control laws, for emergency control of pests necessary to protect public health, or to maintain permanent vegetative cover as approved by the district; ~~and~~

~~I.~~ J. to allow maintenance of public drainage systems. The activities must not damage the conservation purpose of the easement area. In addition, any authorization granted by the ~~district~~ commissioner must provide that the easement area be restored to the condition required by the terms of the conservation easement; and

K. that easement duration may be lengthened during its effective term through mutual agreement with the commissioners of agriculture and natural resources if they determine that the changes effectuate the purpose of the program or facilitate its administration.

8400.3600 [Emergency] ALLOCATION OF FUNDS.

The state board shall ~~authorize~~ allot funds to a district board ~~to obligate funds~~ based on the following factors:

A. the extent of marginal agricultural land in the district; ~~and~~

B. the potential for restoring wetlands;

C. the need for windbreaks within 300 feet of a highway right-of-way; and

D. the need for soil erosion or sediment control, protection or improvement of water quality, or improvement of fish and wildlife habitat.

The state board may also consider the expressed interest of landowners and the readiness of the district board and cooperating groups and agencies to implement the program.

The state board may increase or decrease its obligation as necessary to maximize the use of funds among districts, and may require enrollment periods.

8400.3700 [Emergency] ADMINISTRATION OF FUNDS.

Following authorization to obligate funds from the state board, a district board is responsible for administration of the funds in accordance with Minnesota Statutes, chapter 40 and other applicable laws. The district board may make decisions concerning use of these funds in accordance with parts 8400.3000 to 8400.5600 [Emergency].

As a condition to participating in the program, the district board shall ensure compliance with the maintenance provisions of part 8400.4700 [Emergency] and Minnesota Statutes, chapter 40 by monitoring easements in a manner prescribed by the state board.

Before considering any requests from landowners, the district board shall establish a screening committee. Then, in cooperation with the screening committee, local priority areas must be established. In addition, administrative procedures necessary to efficiently implement the program must be developed. Priority areas must be based on the following factors:

A. the extent of high priority erosion or water quality problems in the district as outlined in the district comprehensive and annual plans;

B. the potential of the land for fish and wildlife production, reducing erosion, and protecting water quality;

C. advice of technical experts familiar with the district;

D. priorities as established by the district board in consultation with other members of the screening committee;

E. current programs administered by the Agricultural Stabilization and Conservation Service, the Fish and Wildlife Service, and the Department of Natural Resources; and

F. RIM reserve program funds available.

8400.3800 [Emergency] APPLICATION FOR FUNDS BY LANDOWNERS.

Landowners interested in participating in the RIM reserve program shall apply to the districts on forms provided by the state board and available from the district office. An application must be filled out in its entirety. A district technician is then responsible for making a determination of easement eligibility and a cost estimate to establish permanent ~~vegetative~~ cover ~~and~~, restore wetlands, and, if necessary, supporting practices. Actual determination of need and a cost estimate may be done by ~~district approved~~ district

board-approved representatives from other agencies. Additional information that may be required by the district board in its consideration of the application must be included.

8400.3900 [Emergency] LAND IN MORE THAN ONE DISTRICT.

If a request involves land in more than one district, application must be made to each district containing proposed land. The affected districts must cooperate to ensure a consistent and timely review of the proposed lands.

8400.4000 [Emergency] CRITERIA FOR DISTRICT BOARD REVIEW.

The criteria for district board review are listed in this part.

A. The applicant must be a district cooperator.

B. The practices needed to establish permanent ~~vegetative~~ cover or restore wetlands must be on the list of approved practices.

C. The primary purpose of the requested easement must be the control of soil erosion or sedimentation, the protection or improvement of water quality, or the improvement of fish and wildlife habitat. In cases where the primary purpose is questionable, the district board in cooperation with the screening committee shall make a determination of the acceptability of the application.

D. The requested easement and vegetative practices must be consistent with local plans and priorities.

E. The easement must be maintained by the landowner, who is responsible for operation and maintenance of vegetative and other supporting practices applied under this program.

F. The practice must comply with the technical requirements of the Field Office Technical Guide. Technical review must be completed by a district technician or Soil Conservation Service employee who has applicable job approval authority or by ~~district-approved~~ district board-approved representatives from other agencies.

8400.4100 [Emergency] DISTRICT APPROVAL.

After completion of a priority determination and cost estimate, the district board shall either approve or deny the application. If it is approved, the district board shall instruct the chair or acting chair to sign the application. Once it is signed, the application becomes an agreement between the ~~state~~ district and landowner and serves as the authorization to begin establishing ~~vegetative~~ permanent cover and, if required, other supporting practices. ~~In addition, district approval obligates payment for the easement and vegetative cover establishment, provided the landowner complies with parts 8400.3000 to 8400.5600 [Emergency].~~ Practices begun before district board approval are ineligible for financial assistance. The requirements for ~~vegetative~~ permanent cover establishment, wetland restoration, and maintenance must be specified in a plan prepared by the district technician or ~~district approved~~ district board-approved representatives from other agencies. This permanent cover plan, once approved by the landowner and district board, becomes a part of the easement. Changes in any provisions of the plan are subject to review and approval by the landowner and district board. If an application is denied, the district board shall notify the landowner in writing within 30 days after district board action of the reason for denial of the application. ~~Changes in any provisions of the agreement are subject to review and approval by the district board.~~

After district board approval, a landowner may be required to provide proof of title of the land enrolled in the following manner:

A. for easements less than $5,000 in value, a certified copy of the deed may be required at landowner expense;

B. for easements between $5,000 and $20,000 in value, an updated abstract may be required at landowner expense;

C. for easements over $20,000 in value, title insurance may be obtained at state expense; and

D. an updated abstract may be required at landowner expense by the state regardless of easement value if questions arise during title review.

8400.4200 [Emergency] CONSERVATION EASEMENT PAYMENTS.

After approval of an application, easement documents provided by the state board must be completed by the district. Once the easement is signed by the landowner, remaining easement documents must be completed within 120 days. If not, the easement becomes null and void unless extended through mutual agreement of the parties. Also, upon signing, the landowner is obligated to comply with all easement conditions including the establishment of permanent cover as specified in parts 8400.3500 and 8400.4100 [Emergency]. Once ~~completed~~ recorded on the land title, the easement is considered conveyed. Upon conveyance, the ~~following~~ easement payments must be made: according to the following schedule.

~~A. for a permanent easement, 70 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue when the easement is conveyed; and~~

~~B. for a ten-year easement, 90 percent of the present value of the average of the acceptable bids for the Federal Conservation Reserve Program in the relevant geographic area and on bids made immediately before the easement is conveyed. The commissioner~~

~~shall establish, at least annually, the discount rate to be used for calculating present value. If federal bid figures have not been determined for the area or the federal program has been discontinued, the rate must be determined by the state board.~~

A. For limited duration easements not less than 20 years in length, payments are based on 70 percent of the present value of average cash rent for the county in which the parcel is located.

B. For permanent easements, payments are based on 100 percent of the present value of average cash rent for the county in which the parcel is located.

C. Parcels involving the restoration of converted wetlands or the establishment of a windbreak within 300 feet of a highway right-of-way must receive an additional payment of ten percent of the present value of average cash rent.

The commissioner shall establish, at least annually, the discount rate to be used for calculating present value. Average cash rent figures are based on an annual survey conducted by the Minnesota Department of Revenue in cooperation with local assessors.

Payments will be a one-time lump sum amount unless the landowner requests up to four equal annual installments.

8400.4300 [Emergency] ESTABLISHMENT OF VEGETATIVE PERMANENT COVER AND SUPPORTING PRACTICES.

Subpart 1. **Installation of practices.** Establishment of ~~vegetative~~ permanent cover and supporting practices must be monitored by the district board to ensure compliance with part 8400.4000 [Emergency], item F. Upon completion, a district technician shall certify whether or not the practice has been satisfactorily performed, including certification that the practice meets the requirements of part 8400.4000 [Emergency], item F. No certification may be made until all specifications have been satisfied. ~~Exceptions must be in accordance with subpart 4.~~ Upon certification of completion, the landowner shall contact the district for payment and present documentation of the costs incurred in the installation of the practice in the form of receipts or invoices.

Subp. 2. **In-kind services.** In-kind services provided by the landowner including, but not limited to, earthwork, seedbed preparation, and seeding, may be credited to the landowner's share of the total cost of the practice. The district board shall determine whether charges for in-kind services are practical and reasonable.

Subp. 3. **Actual cost differing from estimated cost.** If the actual cost of a practice exceeds the RIM reserve estimated cost, the district board may only authorize payment of the approved rate ~~unless an amendment to the vegetative cover agreement has been approved. Because of extreme circumstances including, but not limited to, weather or unforeseen geologic conditions, it may be desirable to increase the estimated cost or postpone the starting or completion date of the practice. These changes must be approved by the district board in advance of completion of the work with an amendment to the vegetative cover agreement covering the changes. Amendments may not be authorized for providing final payments in excess of the maximum rate established in subpart 7. Amendments may not be authorized after final approval of payment has been made on the original agreement~~. If the actual cost is less than the ~~estimated cost~~ RIM reserve estimate, the district shall only authorize payment of the actual cost of the practice. The district board shall review the receipts or invoices provided by the landowner to determine the actual cost of the practice. If the district board determines that the claims are practical and reasonable, it shall authorize payment. Payments may not exceed the rates established in subpart ~~7~~ 4. If the district board determines that certain claims are not justified, it shall notify the landowner in writing of the unjustified claims within 30 days. The district board shall then authorize the issuance of a check for the justified claims.

~~Subp. 4. Partial payment. If weather, unanticipated circumstances beyond the control of the land occupier, or management considerations such as dormant seedings force postponement of certification of completion, the state board or its authorized representative may authorize a district board to issue a partial payment for the work that has been completed. The following conditions must be met before the state board or its authorized representative will consider authorizing a partial payment:~~

~~A. The anticipated completion date will not cause unreasonable delays in establishing vegetative cover.~~

~~B. The completed work meets the requirements of part 8400.4000 [Emergency], item F.~~

~~C. The state board's authorized representative must review the work and concur in the payment decision.~~

~~Subp. 5. Payment conditions. If the state board or its authorized representative authorizes a partial payment under subpart 4, the following conditions apply:~~

~~A. Payment rates must comply with subpart 7.~~

~~B. The balance of the project must be paid by the district board upon the satisfactory completion of the total project.~~

~~C. Expenses incurred in correcting damage caused to the project by virtue of its incompletion must be borne by the landowner.~~

~~D. Landowners receiving partial payments must complete the project within a time considered reasonable by the district board.~~

~~E. Landowners not completing partially paid projects are in violation of part 8400.4700 [Emergency] and must be directed to return the amount of financial assistance received plus interest.~~

~~F. Partial payment authorizations must not be construed as precedent-setting. A request will be considered by the state board or its authorized representative on its merits.~~

~~Subp. 6. Denial. If the state board or its authorized representative denies a request for partial payment under subpart 4, the district board must be notified within 30 days of the reasons for denial of the request.~~

Subp. ~~7.~~ 4. **Payments for establishment of ~~vegetative~~ permanent cover.** After the easement has been conveyed and certification by an assigned district technician that permanent vegetative cover is established, the district board shall notify the state board to make the following payments to the landowner:

A. to establish the permanent cover or supporting practices required by the ~~agreement, the actual cost up to~~ permanent cover plan, up to 75 percent of the total eligible cost not to exceed $75 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed $100 per acre for permanent easements; and

B. for the cost of planting trees required by the ~~agreement, the actual cost up to $75 per acre;~~ permanent cover plan, up to 75 percent of total eligible cost not to exceed $200 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed $300 per acre for permanent easements.

~~Payments for establishing permanent cover, trees, or other improvements are limited to the actual cost, up to $75 per acre.~~ Supporting practices must be required by the ~~vegetative~~ permanent cover ~~agreement~~ plan. These include practices or components of practices listed in parts 8400.5200 to 8400.5600 [Emergency]. Supporting practices must be installed in conjunction with permanent cover ~~or trees~~. If trees are combined with ~~a~~ another cover practice, payments may increase to ~~a~~ the combined ~~actual cost up to $150 per acre~~ total eligible cost specified in items A and B, or up to ~~$75~~ $100 per acre ~~each~~ for ~~trees and~~ cover and $300 per acre for trees if a permanent easement and $75 per acre for cover and $200 per acre for trees if a limited duration easement.

RIM reserve payments may be supplemented by funds from other programs or organizations, including sportsmen's groups or state or federal cost-share programs. Requirements for supplementing payments must be determined by the contributing agency or group.

8400.4400 [Emergency] MAXIMUM PAYMENT.

The state board may not pay more than $50,000 ~~annually~~ to a landowner for ~~the landowner's vegetative~~ permanent cover ~~agreements~~ and conservation easements. The district shall record the easement document with the county recorder.

8400.4500 [Emergency] DISTRICT RECORDS.

The district shall maintain a current ledger of ~~vegetative cover agreements and~~ easements on forms provided by the state board. The ledger must specify the landowners with whom the district has developed ~~agreements~~ easements, the soil mapping units of enrolled land, the ~~vegetative~~ permanent cover and supporting practices involved, the status of ~~vegetative~~ permanent cover establishment, the total of funds obligated and spent, the size and type of easements, and their effective date. Recording must be done, to the extent possible, in a manner compatible with the needs of cooperating agencies and groups. In addition, the location of easements must be recorded on base maps provided by the Land Management Information Center of the State Planning Agency to facilitate entry into a state data base.

8400.4600 [Emergency] EASEMENT RENEWAL.

When a ~~ten-year~~ conservation easement expires, a new permanent or ~~ten-year~~ limited term conservation easement may be acquired by written concurrence of the ~~district~~ commissioner and the landowner. The district may recommend that the state board adjust payment rates as a result of renewing a ten-year conservation easement only after examining the condition of the established cover, supporting practices, and land values.

8400.4700 [Emergency] MAINTENANCE.

A landowner is responsible for operation and maintenance of ~~vegetative~~ permanent cover and supporting practices applied under this program and ensuring that easement restrictions in parts 8400.3500 [Emergency] and 8400.4900 [Emergency] are followed to ensure that the easements conservation objective is met and the effective life of ~~ten~~ 20 or more years is achieved.

Should the landowner fail to install or maintain the practices or comply with easement restrictions during their effective life, the landowner may be subject to:

A. damages up to the amount of financial assistance received for ~~practice installation~~ permanent cover, supporting practices, and easement payment plus interest accrued from the date of each nonmaintenance determination;

B. a mandatory court-imposed injunction; or

C. other actions directed at correcting the maintenance violation. The district board, in consultation with the state board and legal counsel, shall determine how maintenance violations must be corrected. Easements remain in effect even if maintenance violations have occurred.

The landowner is not liable for financial assistance received if the failure was caused by reasons beyond the landowner's control; in those instances, the district board may authorize payment for the repair. Payments for repair must comply with part 8400.4300 [Emergency]. In no case may a district board provide financial assistance to a landowner for the reapplication of ~~vegetative~~ permanent cover or supporting practices that were removed or altered by the landowner during their effective life or failed due to improper maintenance.

8400.4800 [Emergency] MONITORING.

The state board may require reports from the district to monitor the progress of the RIM reserve program and the use of funds. The reports must be on forms provided by the state board.

8400.4900 [Emergency] NONCROPLAND CONVERSION.

~~From approval of vegetative cover agreements until the end of the easement.~~ Land supporting natural vegetation, including, but not limited to, trees, shrubs, permanent pasture, range, or wetland, at the time of easement application must not be converted to cropland. This restriction applies to all land owned or leased as part of the landowner's farm operation.

8400.5000 [Emergency] APPEALS.

If a landowner feels unfairly treated, the landowner may request that the district board review its decision. Should the landowner and the district board reach an impasse, the landowner may petition in writing for a hearing before the state board. If it grants the hearing, which must be informal, the state board or a referee appointed by it shall hear all testimony offered, and shall accept written testimony for ten days after the hearing. The referee, if one is used, shall report the findings and recommendation to the state board, which shall within 60 days of the hearing date make its decision on the appeal, upholding, reversing, or amending the decision of the district board.

8400.5100 [Emergency] VARIANCES.

If a district board feels that a particular requirement of part 8400.3400 [Emergency] prevents a RIM reserve program application from being funded, a request for a variance may be filed with the director of the state board. The request must be in writing and contain:

A. the name and address of the district board making the request and the signature of the district chair;

B. the nature of the variance being sought, including an identification of the applicable rule from which the variance is sought, the time period for which it is sought, and the reason for seeking the variance;

C. a statement of alternatives for dealing with the funding of the affected project if the variance is not granted; and

D. a statement of the effects on applicable natural resources and the public if the variance is granted.

Variance requests must be submitted to the director of the state board at least 30 days before the state board meeting at which the variance is requested to be heard. Within 45 days after the meeting, the state board must approve or deny the variance request and provide written notification of the decision to the applicant. A variance must not be granted if it is in conflict with any statute. The state board may grant a variance upon conditions it prescribes.

If a variance has been granted by the state board, the district board holding the variance may file with the state board at any time a written request for modification or amendment of the variance. The request for modification or amendment, and the state board's consideration of the request, must comply with this part.

8400.5200 [Emergency] APPROVED PRACTICE: STRUCTURES.

Subpart 1. **Definition.** For the purpose of this part, "structure" includes, but is not limited to, floodwater retarding dams, levees, or drain tile plugs designed to provide temporary storage of floodwater, control the release rate of water providing downstream channel stability, impound water, or restore or create wetland areas. ~~Structures are supporting practices.~~

Subp. 2. **Purpose.** The purpose of structures is to permit the establishment of vegetative cover, control soil erosion, protect or improve water quality, or create or improve wildlife habitat. An erosion control structure may provide multiple benefits including, but not limited to, recreation, flood control, and channel stability.

Subp. 3. **Applicability.** Structures may be used on enrolled lands where they are necessary to permit establishment of vegetative cover, for the control of soil erosion, water quality protection or improvement, or creation or enhancement of wildlife habitat. Structures may also be installed on nonenrolled lands if necessary to enhance or protect enrolled lands.

Subp. 4. **Policies.** Funding is authorized:

A. only for the construction of structures that provide for reduction of soil erosion, water quality protection or improvement, or creation or enhancement of wildlife habitat;

B. ~~for permanent fencing of a structure as determined by the district board;~~

~~C.~~ for tree and shrub plantings adjacent to the structure and seeding necessary to stabilize the structure and adjacent critical areas, including, when possible, the use of those species that provide quality wildlife habitat;

~~D.~~ C. for structures that provide multiple benefits if the primary benefit is soil erosion control, water quality protection or improvement, or creation or improvement of wildlife habitat; and

~~E.~~ D. for temporary materials and seedings necessary to properly stabilize the structure during construction.

8400.5300 [Emergency] APPROVED PRACTICE: DIVERSIONS.

Subpart 1. **Definition.** For purposes of this part, "diversion" means a channel with a supporting ridge on the lower side constructed across the slope. ~~Diversions are supporting practices.~~

Subp. 2. **Purpose.** The purpose of a diversion is to permit the establishment of vegetative cover or divert water away from erosive areas or areas that pose a threat to water quality to areas where it can be used or disposed of safely. Diversions may provide additional benefit to wildlife.

Subp. 3. **Applicability.** A diversion may be used where:

A. runoff from higher areas is eroding enrolled lands or is needed to establish vegetative cover; or

B. surface and shallow subsurface flow is damaging sloping enrolled lands or contaminating ground or surface water.

Diversions may be installed on nonenrolled lands if necessary to enhance or protect enrolled lands.

Subp. 4. **Policies.** Funding is authorized:

A. for tile systems necessary for the establishment and operation of diversions;

B. for construction necessary to properly establish diversions including earthwork, materials, and seedings; and

C. for temporary materials and seedings necessary to properly stabilize diversions during construction~~; and~~

~~D. for permanent fencing of diversions as determined by the district board~~.

8400.5400 [Emergency] APPROVED PRACTICE: STORMWATER CONTROL SYSTEMS.

Subpart 1. **Definition.** For purposes of this part, "stormwater control system" means a practice or system of practices including, but not limited to, grassed waterways and grade stabilization structures installed to convey storm runoff to a constructed or natural outlet in a nonerosive manner. This practice does not apply when the primary purpose is drainage to expand or improve crop production or making the cropping system more convenient. ~~Stormwater control systems are supporting practices.~~

Subp. 2. **Purpose.** The purpose of a stormwater control system is to permit the establishment of vegetative cover, provide a means of regulating or removing runoff to control erosion, or protect or improve water quality. Additional benefit may be provided through creation of wildlife habitat.

Subp. 3. **Applicability.** A stormwater control system may be used on enrolled lands by using vegetative or structural measures for control of erosion or protection or improvement of water quality. Stormwater control systems may also be installed on nonenrolled lands if necessary to protect enrolled lands.

Subp. 4. **Policies.** Funding is authorized:

A. for the construction of practices required in a complete stormwater control system, including, but not limited to, a lined waterway or outlet, detention ponds, permanent sod cover, and permanent vegetation including trees, shrubs, and grasses;

B. for tile systems necessary for the establishment and operation of stormwater control systems; and

C. for temporary materials and seedings necessary to properly stabilize a stormwater control system during construction~~; and~~

~~D. for permanent fencing of stormwater control systems as determined by the district board~~.

8400.5500 [Emergency] APPROVED PRACTICE: FIELD WINDBREAKS.

Subpart 1. **Definitions.** For purposes of this part, "~~field~~ windbreak" means a strip or belt of trees ~~or~~, shrubs, or grass barriers established within ~~or~~ a field, adjacent to a field, or within 300 feet of a highway right-of-way.

Subp. 2. **Purpose.** The primary purpose of a ~~field~~ windbreak is to create wildlife habitat or reduce wind erosion. Additional benefits may be ~~the creation of wildlife habitat, increased moisture conservation by~~ controlling snow deposition, and beautification and enhancement of the landscape.

Subp. 3. **Applicability.** ~~Field~~ Windbreaks may be used in or around ~~open~~ fields or adjacent to highway rights-of-way that need ~~protection against wind erosion. Additional benefits may be realized from the creation of~~ additional wildlife habitat.

Subp. 4. **Policies.** Funding is authorized:

A. for ~~field~~ windbreaks if the inter-windbreak or non-windbreak area is established in permanent ~~vegetative~~ cover at the time the windbreak is established; and

B. for site preparation, planting materials, planting, chemicals for weed control, and other applicable costs necessary to establish a ~~field~~ windbreak.

The landowner is responsible for controlling competitive vegetation for two years following planting and must bear the cost of control. Tree planting must not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage systems.

8400.5600 [Emergency] APPROVED PRACTICE: ESTABLISHMENT OF PERMANENT VEGETATIVE COVER.

Subpart 1. **Definition.** For purposes of this part, "permanent vegetative cover" means planting permanent vegetation on enrolled lands, including trees, shrubs, vines, grasses, and legumes.

Subp. 2. **Purpose.** The purpose of permanent vegetative cover is to control soil erosion, protect or improve water quality, or create or improve wildlife habitat.

Subp. 3. **Applicability.** Permanent vegetative cover may be used on enrolled lands if vegetation is needed to control soil erosion, protect or improve water quality, or create or improve wildlife habitat.

Subp. 4. **Policies.** Funding is authorized for:

A. earthwork, materials, seed, and seedings, and other associated costs necessary to stabilize the area; and

B. temporary materials and seedings necessary to stabilize the area during construction~~; and~~

~~C. permanent fencing of the area as determined by the district board~~.

Subp. 5. **Conflicts.** Tree planting must not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage systems.

REPEALER. Part 8400.3100 [Emergency], subparts 34 and 36, are repealed.

Executive Orders

Order #87-17 Prescribing the Manual for Military Justice State of Minnesota, 1987 Rescinding Executive Order #83-28

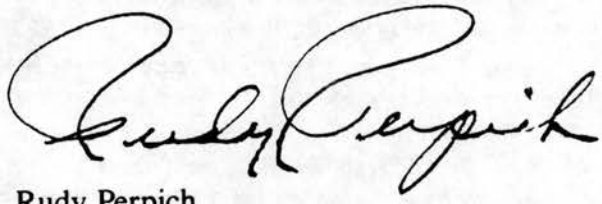
I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby prescribe the following manual for military justice, to be designated as "Manual for Military Justice, State of Minnesota, 1987."

This manual shall be in force and effect in the state military forces from this date forward with respect to all non-judicial punishment and court-martial processes.

Executive Order 83-28, dated June 14, 1983, and the "Manual for Military Justice, State of Minnesota, 1983" prescribed therein are hereby rescinded.

Pursuant to *Minnesota Statutes*, Section 4.035, subd. 2, this Order shall be effective fifteen (15) days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with *Minnesota Statutes*, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF, I have set my hand this thirteenth day of July, 1987.



Rudy Perpich
Governor

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adoption of the Rule of the Minnesota Department of Agriculture Governing the Reinvest in Minnesota Conservation Reserve Program

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING EMERGENCY RULES

Notice of the Commissioner's intent to adopt the above-entitled emergency rule was published in the State Register on July 27, 1987, and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, section 14.30 on July 22, 1987.

All persons were given the oportunity to submit written comment on the rule for at least 25 days after notice of proposed rulemaking.

The following changes were made to the rule as proposed. No requests for notice of submission to the Attorney General were received by the department.

8400.3000, subp. 4a. and subp. 10.

Altered wetland replaces converted wetland. The change is necessary to prevent confusion with the 1985 Food Security Act. This 1985 law, also known as the "Farm Bill", refers to converted wetlands in a different context. Altered (wetland) is therefore a better term. Additional language was also added to further clarify the definition.

Subp. 10a.

The additional language is necessary to complement provisions of the 1985 Food Security Act.

Subp. 22a. and subp. 44.

"Highway windbreak" and "living snowfence" replaces windbreak. This change is necessary to differentiate this definition from another type of windbreak commonly used in soil and water conservation applications.

Subp. 31b.

The additional language is necessary to clarify the role of the commissioner.

Subp. 37.

The Department of Transportation was deleted to retain the same group of

members. Listed entities are involved with RIM Reserve throughout the state. The Department of Transportation is one of many participating groups that have a limited geographic area of interest. Thus, in addition to consistency, brevity is served by keeping the list to a minimum number.

8400.3400 C.

In reference to the letter from McLeod Soil and Water Conservation District, they suggested wording for this part. The department considered the suggestion, but did not adopt it because the proposed language was deemed to be satisfactory.

8400.3400 D. (1).

In reference to the letter from Dodge Soil and Water Conservation District, they commented on the crop history time frame. The department cannot consider their request because the 1981-1985 crop history is established by statute (40.43, subd. 2 (5)).

8400.3400 (5) (b).

"Balance of the agricultural land" was changed to "total" to reflect the intent of the language on lines 21 to 32. For example, if a landowner owns 20 acres or less, all acreage (potentially 100 percent) may be enrolled. The potential percentage of enrollment decreases to 20 percent as 200 acres of ownership is exceeded. In the calculation of acreages between 20 and 200 using the previous language, a 2.1 acre gap exists between 199 and 200 acres. Any gap in acreage should occur nearer 20 than 200 acres to reflect the advantage in potential percent enrollment. The new language shifts the acreage gap to between 22 and 23 acres.

8400.3500 F.

The additional language is necessary to make this part consistent with part H.

8400.3600.

In reference to the letter from McLeod Soil and Water Conservation District, they commented on the allocation of funds. The department considered the suggestion and believes that language in this part satisfactorily addresses their concern.

8400.4000 F.

The additional language is necessary to accomodate unique technical circumstances presented by the restoration of altered wetlands.

8400.4100 C.

The additional language is needed to make proposed policy consistent with current policy.

8400.4200 A. and B.

In reference to the letters from Hubbard, Mille Lacs, Pennington, Sherburne, Stearns and Wright Soil and Water Conservation Districts, they commented on the need for development of more equitable easement payment rates. The department concurs. The revised language on pages 16 and 17 is, in the departments' view, a reasonable solution to local payment rate concerns. The revised payment method utilizes the best available statewide data and provides higher values for better quality land and ensures that payments do not exceed estimated market values.

8400.4300 subp. 4.

The change from state board to commissioner was necessary to conform with current administrative procedure. In the state accounting system, it is the commissioner who authorizes RIM Reserve payments, not the state board. Morever, RIM Reserve is under the auspices of the commissioner, not the state board.

8400.4400

The change was necessary for the reasons stated in the previous justification.

8400.4600

In reference to the letter from Pope soil and Water Conservation District, they proposed revised language for line 27. The department concurs with the suggestion and has made the appropriate change. On line 26, state board was changed to commissioner to reflect the commissioners responsibility for the program.

8400.4700.

In reference to the letter from Stearns Soil and Water Conservation District, they commented on the need for funds to reestablish failed seedings. The department concurs. Language in this part, beginning on line 16, authorizes the district board to authorize payment for repair (reestablishment) of RIM Reserve practices. The change on line 13 was necessary to conform with previously stated administrative procedures.

8400.5500.

This change was necessary to differentiate between types of windbreaks. Field windbreaks have a different applicability than do highway windbreaks.

8400.5550.

This change was necessary for the reasons stated in the justification for 8400.3000, subparts 22a. and 44. In addition, the practice serves as a complement to field windbreaks (8400.5500).

The department initiated other technical changes throughout the document as shown for example on 8400.5200, subpart 2, line 18 to update language and make the respective sections consistent with the remainder of the document.

The department concludes that the changes between the Rules as Proposed and the Rules as Adopted are non-substantial for the reasons stated above.

NOW THEREFORE, IT IS ORDERED that these rules identified as the Emergency Rules Governing the Reinvest in Minnesota Conservation Reserve Program are adopted this 22nd day of September, 1987, pursuant to authority vested in me by Minnesota Statutes, section 40.45.

STATE OF MINNESOTA

Jim Nichols

Jim Nichols
Commissioner of Agriculture

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adoption of the Rule of the Minnesota Department of Agriculture Governing the Reinvest in Minnesota Conservation Reserve Program

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STATE OF MINNESOTA

Jim Nichols

Jim Nichols
Commissioner of Agriculture

POPE SOIL AND WATER CONSERVATION DISTRICT

24 1st Ave. S.E.
Glenwood, Minnesota 56334

MINNESOTA
SOIL AND WATER CONSERVATION DISTRICTS

8-3-87

Greg Larson, Program Specialist

Subject: Proposed RIM Reserve Rules

Page 17 Line 5
Suggest you change the wording to:
Permanent Easements and Limited duration Easements involving the restoration of converted wetlands ETC,ETC,

Reason: Some people could take the present wording to mean only Permanent Easements get the ten percent additional payment.

Page 21 Line 20
Suggest you delete the words ten-year
Reason: Not needed

Sincerely
Kim W. Krueger
Kim W. Krueger
District Technician

PENNINGTON SOIL AND WATER
CONSERVATION DISTRICT

1305 Dale Street
Thief River Falls, Minnesota 56701
Telephone (218) 681-3348



MINNESOTA
SOIL AND WATER CONSERVATION DISTRICTS

August 18, 1987

Minnesota Soil & Water
Conservation Board
90 West Plato Blvd.
St. Paul, MN 55107

Dear Gentlemen:

We, the board of supervisors of the Pennington Soil & Water Conservation District wish to express our disappointment with the proposed payment amount for the next RIM sign-up in Pennington County.

The amount of $147.28 per acre, if broken down into yearly increments, equals $7.37 per acre/per year. With land taxes ranging from $2 - $10 per acre/ per year, we can't see any incentive for farmers to enroll in this program.

With the average CRP bid for the past 4 sign-ups at $43.03 and the average of land rent in the county being somewhere between $25 -$35, we are unsure of where the figures were attained to determine payment amounts.

We believe RIM is an outstanding program and are most willing to support it, but we feel we can't ask our fellow farmers to take less for their land than it is actually worth.

Sincerely,

Raymond S Olson

Raymond S. Olson
Chairman of the Board

bjo

AN EQUAL OPPORTUNITY EMPLOYER

STEARNS COUNTY SOIL AND WATER
CONSERVATION DISTRICT

3700 West Division Street
St. Cloud, MN 56301
Telephone (612) 251-6718

MINNESOTA
SOIL AND WATER CONSERVATION DISTRICTS

TO: Greg Larson, Program Specialist

FROM: Stearns County SWCD

SUBJECT: Proposed RIM Reserve Rules

DATE: August 20, 1987

We have the following comments and/or changes to the Proposed RIM Reserve Rules:

As far as operation and maintenance we feel there should be a reserve fund set up to cost-share failed seedings due to extreme drought and injury to trees and vegetation due to fire. Also, a reserve fund to cost-share the reseeding of legumes after the first 10 years should be available, if needed. We want to make sure that RIM acres have a good legume/grass cover to control erosion and enhance wildlife habitat for the entire 20 years.

The method of calculating the payment for the easement needs to be upgraded in order to make a fair return to the farmer for a 20-year easement. We are concerned about the cropland payment being too low. The converted wetland payments are not too far away from being practical.

With the low economic return on agricultural cropland these past couple of years the cash rent is not an accurate reflection of the true value of the land. We expect the figure of 90 to 95% of the average cash rent might be more fair.

We believe that Districts should be given the option of using either the 90% of the average CRP bids or 90 to 95% of the average county rent. Districts would be able to choose the option that would be best for the farmers, RIM program, and the environment.

Is it in the law that a discount rate must be used? The majority of the farmers entering into RIM easements are not investing the payment. Most of the farmers need this money to pay last years operating costs. Can the discount rate be discontinued or at least lowered?

Originally, we understand, RIM payments were kept below the CRP payment rate to reduce competition with the federal program but with the RIM easement period at 20 years and perpetual there is no need to worry about competing.

If the payment rate doesn't go up there won't be a RIM program in Stearns County.

AUG 17 1987

DODGE SOIL AND WATER CONSERVATION DISTRICT

P.O. Box 488
Dodge Center, Minnesota 55927
Telephone: (507) 374-6430

MINNESOTA
SOIL AND WATER CONSERVATION DISTRICTS

August 13, 1987

Greg Larson
Program Specialist
State Soil & Water Conservation Board
90 W. Plato Boulevard
St. Paul, MN 55107

Dear Greg:

In response to your letter for comments on the new RIM rules and after reading through the new rules, I have the following comment:

Why can't the cropping history period be updated. When the landowner gives us the cropping history, he starts going back that many years and it's hard to remember which crops were where. Looking for ASCS records (which we don't have to do) is difficult and very time consuming, if you're lucky enough to find them. Why not take the last five years - from 1982 to 1987. We are dealing with the present erosion not the past.

Sincerely,

Jim Hruska

Jim Hruska
District Technician
Dodge SWCD

HUBBARD COUNTY SOIL AND WATER
CONSERVATION DISTRICT

Route 4, Box AA
Park Rapids, Minnesota 56470
Telephone: (218) 732-9723

MINNESOTA
SOIL AND WATER CONSERVATION DISTRICTS

August 11, 1987

AUG 18 1987

Greg Larson
State Soil and Water Conservation Board
MN Department of Agriculture
90 West Plato Boulevard, Room 316
St. Paul, Minnesota 55107

Dear Greg:

The Hubbard County SWCD Board of Supervisors reviewed the 1987 amended RIM Reserve Law and believe the State Commission of Revenue has the power to make the following additions to the Proposed Rim Reserve Rules:

Page 17 line 1 continuation: Delete period after located; add: or payments based on 90% of the present value of the average accepted bids for the federal Conservation Reserve Program, as contained in Public Law 99-198, in the relevant geographic area and on bids accepted at the time of easement application. Local SWCD's in conjunction with their respective screening committees will choose the easement payment option prior to the sign-up period.

Page 17 line 4 continuation: Delete period after located; add: or 70% of the township average equalized estimated market value of agricultural property as established by the Commission of Revenue at the time of easement application. Local SWCD's in conjunction with their respective screening committees will choose the easement payment option prior to the sign-up period.

We feel this easement payment option will keep the RIM Reserve a viable program in all Districts throughout the state. If these options cannot be made available, then we would like to see the easement payments format stated above be adopted rather than the one based on cash rent.

Sincerely,

E. H. Kruft

Edwin Kruft, Chairman
Hubbard County SWCD Board

SHERBURNE SOIL AND WATER
CONSERVATION DISTRICT

661 Main Street
Elk River, Minnesota 55330
Tel. (612) 441-7862

MINNESOTA
SOIL AND WATER CONSERVATION DISTRICTS

AUG 13 1987

August 11, 1987

Mr. Greg Larson
Soil & Water Conservation Board
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, MN 55107

Dear Mr. Larson

In regard to the proposed RIM Reserve Rules, the Sherburne District Board takes exception to basing easement payments on average cash rent. This formula does not take into account the fact that Sherburne County is one of the fastest urbanizing areas in the state. For much of Sherburne County, land values are based on residential uses--not crop production. To expect a landowner to commit their land to the RIM program for 20 years or more for a payment that provides no incentive, and barely covers property taxes is unreasonable.

The response by Sherburne County landowners to the 1986 RIM program shows their widespread interest and support for this type of program. However, when told of the proposed payment rates for 1987, none of the previous applicants would have enrolled in the program had the 1987 rates been used.

For these reasons, the District Board urges the Commissioner to use the CRP payment rates to establish easement payments, and not the present cash rent value.

Sincerely

D'Wayne DeZiel

D'Wayne DeZiel, Chairperson
Sherburne SWCD

WMB/wjb

cc: Mark Nelson

MILLE LACS SOIL AND WATER CONSERVATION DISTRICT

635 North Central Avenue, Box 7
Milaca, Minnesota 56353
Telephone: (612) 983-2154

Greg -
F.Y.I.
AUG 7 '87

MINNESOTA
SOIL AND WATER CONSERVATION DISTRICTS

August 6, 1987

TO: Wayne Edgerton SWCB RIM Coordinator

FROM: Mille Lacs SWCD

RE: New RIM 20 YR and Perpetual Payments

At our August 3 rd meeting we discussed the new proposed RIM payments and rules.

The board was very disappointed in the using cash rent for Mille Lacs County for RIM payments. The board felt that the $196.74 allotted is first of all a lot lower than last years 10 year payment and that the payment would not even cover the taxes that would occur over the twenty years. The person would be better off in just haying the land rather than putting it into RIM.

The board would rather see the old wording used on page 16 lines 20-32 where they use the CRP bid as the basis. We know that the basis of the new wording was to get away from using CRP, but it is unfair to give less money for more years.

There has to be a better way, why can't you use 100% of the cash rent for 20 yr payments and 100% of current land value for the perpetual easements?

The board hopes that the SWCB will come up with a more equitable way of paying people for the RIM program.

McLEOD SOIL AND WATER CONSERVATION DISTRICT
1304 Fir Avenue
Glencoe, Minnesota 55336
Telephone (612) 864-5176

AUG 7 1987

MINNESOTA
SOIL AND WATER CONSERVATION DISTRICTS

August 6, 1987

Greg Larson
State Soil & Water Conservation Board
90 West Plato Boulevard
Room 316
St. Paul, Minnesota 55107

Dear Greg,

Upon review of the proposed RIM rules our district would like to offer the following comments:

1. Eligible Land (Lines 30-32)

   We would like to see a minimum ratio of upland to wetland set here. We feel the upland is critical in providing nesting cover to wildlife.

   Suggested wording:

   C. Consists of a converted wetland and cropland adjacent to the converted wetland. Adjacent upland shall be a minimum of one acre of upland to each acre of wetland restored and a maximum of four acres of upland for each acre of wetland restored.

2. Allocation of funds does not address the ratio of administrative funds to easement aquisition funds. We hope that districts able to aquire easements in addition to those allowed with the original allocation will also receive the necessary administrative funds needed to enroll the additional land.

I trust these comments will be considered in drafting the final rules.

Sincerely,

Mary Mueller

Mary Mueller
District Technician

MSM/dh

In the Matter of the Adoption of Emergency Rules of the Minnesota Department of Agriculture Governing the Reinvest in Minnesota Conservation Reserve Program

DECLARATION OF COUNSEL

I, Paul Strandberg, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned emergency rule and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, Chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0986.

Paul Strandberg
Special Assistant Attorney General

Date: 9/23/87

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : OF AGRICULTURE

DATE : September 23, 1987

TO : Rita Desmond
Administration - Finance Division
Office of the Attorney General

FROM : Carol Milligan, Management Analyst
Planning Division

PHONE : 296-6909

SUBJECT : Review of Emergency Rules Governing RIM

The Department of Agriculture adopted the above-mentioned emergency rules pursuant to Minnesota Statutes, sections 14.29-14.36. Enclosed with this memorandum are the documents which are required to be submitted to the Attorney General for review prior to final approval of the emergency rule. A list of the documents is attached for your convenience.

If you have questions, please contact me.

CM:cb

Attachment

cc: Jim Nichols, Commissioner
Rollin Dennistoun, Deputy Commissioner
Paul Strandberg, Special Assistant Attorney General
Craig Lindeke, Office of Revisor of Statutes
Gerald Heil, Director, Planning Division
Ken Tow, Director, SWCB
Greg Larson, SWCB

RECEIVED
ATTORNEY GENERAL'S OFFICE

SEP 24 1987

204 ADMINISTRATION BLDG.
50 SHERBURNE AVENUE
ST. PAUL, MN 55155

PLANNING DIVISION
DEPARTMENT OF AGRICULTURE

LIST OF ENCLOSED DOCUMENTS

A. Emergency Rules as Proposed.

B. Notice of Intent to Adopt Emergency Rules.

C. Affidavit of Mailing Notice of Intent to Adopt Emergency Rules.

D. State Register Photo Copy of Notice of Intent to Adopt.

E. Emergency Rules as Adopted.

F. Findings of Fact and Conclusions, and Order Adopting Rule.

G. Comments Received.

H. Declaration of Counsel.