

1 Department of Agriculture

2

3 Adopted Rules Relating to Excessive Soil Loss Control

4

5 Rules as adopted

6 8400.4000 GENERAL PROVISIONS.

7 Subpart 1. **Purpose.** The purpose of parts 8400.4000 to  
8 8400.4080 is to reduce the amount of soil erosion on Minnesota  
9 land. The benefits of the local adoption of parts 8400.4000 to  
10 8400.4080 include decreasing the amount of off-site damages from  
11 sediment, retaining the productivity of the soil, and improving  
12 water quality.

13 Subp. 2. **Policy.** Parts 8400.4000 to 8400.4080 are adopted  
14 in accordance with Minnesota Statutes, sections 40.19 to 40.28  
15 and apply to all activities which cause excessive soil loss.

16 Subp. 3. **Scope.** Parts 8400.4000 to 8400.4080 pertain to  
17 all activities that will disturb the land surface and cause  
18 excessive soil loss, and are consistent with the minimum degree  
19 of local protection against soil erosion. Local governments may  
20 enact soil loss limits which are more restrictive than parts  
21 8400.4000 to 8400.4080.

22 Subp. 4. **Voluntary adoption.** A local government of a  
23 county, home rule charter or statutory city, or town with the  
24 authority to adopt and administer an ordinance may choose to  
25 adopt and administer soil loss limits. Parts 8400.4000 to  
26 8400.4080 are only applicable if the local government adopts a  
27 soil loss limits ordinance under Minnesota Statutes, sections  
28 40.19 to 40.28.

29 Subp. 5. Conformance with local ordinances. A local soil  
30 loss limits ordinance must not violate an ordinance the local  
31 government is enforcing.

32 8400.4002 DEFINITIONS.

33 Subpart 1. **Scope.** For the purpose of parts 8400.4000 to  
34 8400.4080 the terms defined in this part have the meanings given.

35 Subp. 2. **Agricultural use.** "Agricultural use" means the

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1 use of land for the production of livestock, dairy animals,  
2 dairy products, poultry or poultry products, fur-bearing  
3 animals, horticultural or nursery stock, including sod, fruit,  
4 vegetables, forage and cash grains, forestry, or bees and apiary  
5 products. Wetlands, pasture, and woodlands accompanying land in  
6 agricultural use are also defined as an agricultural use.

7 Subp. 3. **Board.** "Board" means the state Soil and Water  
8 Conservation Board created under Minnesota Statutes, chapter 40.

9 Subp. 4. **Commissioner.** "Commissioner" means the  
10 commissioner of agriculture or a designated agent.

11 Subp. 5. Conservation plan and time schedule.

12 "Conservation plan" means a document listing a set of practices  
13 that, when implemented, will decrease soil erosion to the soil  
14 loss limits on a particular parcel of land. The "time schedule"  
15 will set times to implement, make satisfactory progress on, and  
16 complete the conservation plan.

17 Subp. 5- 6. Conservation practice. "Conservation practice"  
18 means a practice containing a definition, purpose, conditions  
19 under which the practice is applied including design  
20 requirements, and specifications containing a statement of  
21 details required for installing a conservation practice,  
22 including necessary kinds, quality, and quantity of work and  
23 materials. A conservation practice may be a permanent or  
24 temporary, vegetative or structural measure that, when applied  
25 to the land, will contribute to the control of wind and water  
26 erosion and sedimentation. "Conservation practices" may be used  
27 in a development activity area or an agricultural area.

28 Permanent practices are those that have an effective life of ten  
29 years or more and include grassed waterways, terraces, field  
30 windbreaks, water control structures, grade stabilization  
31 structures, sediment retention structures, stripcropping, water  
32 and sediment control basins, and other permanent practices  
33 approved by the board. Temporary practices include conservation  
34 tillage, contour farming, grasses and legumes in rotation,  
35 emergency tillage, fabric filter barriers, filter strips,  
36 stormwater inlet and outlet protection, and any other cultural

1 practices approved by the board. The field office technical  
2 guide or other recognized technical procedures must be used to  
3 design, install, and certify practices.

4 Subp. ~~6~~ 7. **Development activity.** "Development activity"  
5 means a physical disturbance, excluding agricultural use, of the  
6 land associated with activities that may result in sedimentation  
7 of adjacent lands or waters. These activities include, but are  
8 not limited to, clearing, grading, excavating, transporting,  
9 draining, and filling lands. Federal, state, county, and  
10 municipal road construction designed and installed according to  
11 Department of Transportation standard specifications for  
12 construction are not development activities.

13 Subp. ~~7~~ 8. **District.** "District" means a soil and water  
14 conservation district organized under Minnesota Statutes,  
15 chapter 40.

16 Subp. ~~8~~ 9. **Erosion.** "Erosion" means any process that  
17 wears away the surface of the land by the action of water, wind,  
18 ice, or gravity. "Erosion" can be accelerated by the activities  
19 of man or nature.

20 Subp. ~~9~~ 10. **Excessive soil loss.** "Excessive soil loss"  
21 means soil loss that is greater than the soil loss limit.  
22 ~~"Excessive-soil-loss"-may-be-evidenced-by~~ or which causes  
23 sedimentation on adjoining land or in a body of water,  
24 watercourse, or wetland.

25 Subp. ~~10~~ 11. **Field office technical guide.** "Field office  
26 technical guide" means the guide developed by the United States  
27 Department of Agriculture, Soil Conservation Service and adopted  
28 by the soil and water conservation districts containing  
29 technical information including methods and procedures by which  
30 the various types of erosion can be ~~measured~~ estimated, and  
31 conservation practice standards and specifications required in  
32 the application of soil and water conservation practices.

33 Subp. ~~11~~ 12. **Land occupier.** "Land occupier" means a  
34 person, firm, corporation, municipality, or other legal entity  
35 that owns or possesses land as owner, lessee, renter, tenant, or  
36 otherwise. The terms include both the owner and the occupier of

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1 the land if they are not the same.

2 Subp. ~~12~~ 13. **Local government.** "Local government" means  
3 the elected governing body of a county, home rule charter or  
4 statutory city, or town, or their designated agents. Agents may  
5 include a soil and water conservation district, water management  
6 organization, joint power board, watershed district, or other  
7 governmental entity responsible for resource management within  
8 the affected jurisdiction.

9 Subp. ~~13~~ 14. **Sediment.** "Sediment" means solid mineral or  
10 organic material that is in suspension or motion, being  
11 transported or has been moved from its original site by air,  
12 water, gravity, or ice.

13 Subp. ~~14~~ 15. **Sedimentation.** "Sedimentation" means the  
14 process or action of depositing sediment that, upon inspection,  
15 is determined to have been caused by erosion.

16 Subp. 16. **Sedimentation control plan; time schedule.**  
17 "Sedimentation control plan" means a document listing a set of  
18 practices that, when implemented, will decrease sedimentation to  
19 the allowable level on a particular parcel of land. A "time  
20 schedule" must set times to implement, make satisfactory  
21 progress on, and complete the "sedimentation control plan."

22 Subp. ~~15~~ 17. **Soil.** "Soil" means the unconsolidated  
23 mineral and organic material on the immediate surface of the  
24 earth that serves as a natural medium for the growth of land  
25 plants.

26 Subp. ~~16~~ 18. **Soil loss limits.** "Soil loss limits" means  
27 the maximum amount of soil loss from water or wind erosion,  
28 expressed in tons per acre per year, that is allowed by local  
29 regulations on a particular soil. The local soil loss limits  
30 ordinance must use the soil loss tolerance for each soil series  
31 described in the Field Office Technical Guide or the United  
32 States Department of Agriculture Soil Conservation Service Soil  
33 Survey for a particular county, whichever is more current.

34 Subp. ~~17~~ 19. **Soil loss tolerance.** "Soil loss tolerance"  
35 means the maximum rate of annual soil erosion that will permit  
36 crop productivity to be sustained economically and

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1 indefinitely. In Minnesota, "soil loss tolerance" ranges from  
2 one to five tons per acre per year depending on the particular  
3 soil characteristics. "Soil loss tolerance" values for  
4 Minnesota soil series are provided in the Field Office Technical  
5 Guide or the United States Department of Agriculture Soil  
6 Conservation Service Soil Survey for a particular county.

7 8400.4005 LOCAL DUTIES.

8 In accordance with Minnesota Statutes, sections 40.19 to  
9 40.28, a local government may adopt soil loss limits which meet  
10 the minimum standards and criteria for soil loss, and once  
11 adopted shall administer and enforce the soil loss limits  
12 ordinance.

13 8400.4010 SOIL AND WATER CONSERVATION DISTRICT DUTIES.

14 In accordance with Minnesota Statutes, sections 40.19 to  
15 40.28, districts shall:

- 16 A. provide assistance to local governments in  
17 determining whether excessive soil loss is occurring;
- 18 B. provide assistance to the land occupiers in  
19 developing a conservation plan and time schedule ~~with-suggested~~  
20 suggesting conservation practices and a time schedule for their  
21 ~~application of-the-best-practicable-conservation-practices;~~ and
- 22 C. make available to land occupiers state cost-share  
23 funds as provided by parts 8400.4045 and 8400.4060;
- 24 D. provide assistance to local governments in the  
25 development, review, monitoring, and enforcement of local soil  
26 loss limits ordinances, conservation plans, and time schedules,  
27 and sedimentation control plans and time schedules; and
- 28 E. provide assistance to the commissioner in the  
29 development and review of additional adequate technical  
30 information.

31 8400.4015 COMMISSIONER'S DUTIES.

32 In accordance with Minnesota Statutes, sections 40.19 to  
33 40.28, the commissioner of agriculture shall:

- 34 A. establish statewide standards reviewed every five

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1 years, for the management of land to prevent excessive soil loss  
2 from occurring;

3 B. upon request, assist the local government in the  
4 drafting of a soil loss limits ordinance which meets the  
5 provisions of Minnesota Statutes, sections 40.19 to 40.28 and  
6 parts 8400.4000 to 8400.4080 which assistance includes, but is  
7 not limited to, creation of specific guidelines to be used  
8 locally in the formulation of reasonable regulations and other  
9 conservation practices based on sound technical data and  
10 consistent with statewide standards and community land use needs;

11 C. where sufficient information is not available,  
12 cooperate to the fullest extent with appropriate federal, state,  
13 and local governments in securing adequate technical information;

14 D. periodically review and upgrade soil loss limits  
15 criteria based on new technical methodologies;

16 E. disseminate to the local government, whenever  
17 available, technical information including information of  
18 federal, state, and local programs, educational materials and  
19 other material useful in carrying out a soil loss limits  
20 program; and

21 F. coordinate federal, state, and local soil loss  
22 limits activities in the state.

23 8400.4025 MINIMUM STANDARDS FOR LOCAL SOIL LOSS LIMITS  
24 ORDINANCES.

25 Subpart 1. Permitted soil loss. Local government soil  
26 loss limits must use the soil loss tolerance for each soil  
27 series as the maximum amount of soil loss permitted. The final  
28 ~~approval~~ recommendation of the soil loss tolerance information  
29 used rests with the district.

30 Subp. 2. Permitted sedimentation limits. Local government  
31 sedimentation limits must minimize sediment on adjoining land or  
32 in a body of water, watercourse, or wetland. In establishing  
33 these sedimentation limits the local government shall give  
34 consideration to the nature of the affected land or water. In  
35 making these determinations the local government should seek the

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1 advise of local, state, and federal agencies.

2 Subp. 3. Sedimentation control plan. Local  
3 government soil loss limits must require that a sedimentation  
4 control plan and time schedule must be developed by a land  
5 occupier and submitted to the local government before any  
6 development activity begins. The following must be addressed in  
7 developing and implementing a sedimentation control plan:

8 A. stabilization of denuded areas and soil stockpiles;

9 B. establishment of permanent vegetation;

10 C. protection of adjacent properties;

11 D. timing and stabilization of sediment trapping

12 measures;

13 E. sediment basins;

14 F. stabilization of cut and fill slopes;

15 G. stabilization of watercourses;

16 H. stabilization of construction access routes;

17 I. disposition of all temporary measures; and

18 J. maintenance of all temporary and permanent urban  
19 conservation practices.

20 Subp. 3- 4. Model ordinances. The model ordinances  
21 incorporated by reference in part 8400.4080 are the minimum  
22 standards for the adoption or amendment of soil loss limits  
23 under Minnesota Statutes, sections 40.19 to 40.28. A local  
24 government may adopt soil loss limits which are stricter than  
25 the model ordinances.

26 8400.4030 PROHIBITED ACTIVITIES.

27 Subpart 1. General prohibition. A person may not cause,  
28 conduct, contract for, or authorize an activity which causes  
29 excessive soil loss.

30 Subp. 2. Agricultural activity. A land occupier shall:

31 A. if engaged in an agricultural use, prevent  
32 excessive soil loss and ensure that proper management and  
33 conservation practices are being applied to the land;

34 B. if using wooded or open land for pasture, ensure  
35 that proper management is used to prevent excessive soil loss

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1 due to overgrazing or cattle paths; and

2 C. if using wooded land for timber harvest, ensure  
3 that proper management is used to prevent excessive soil loss;  
4 and

5 D. if a body of water, watercourse, or wetland is  
6 located within an agricultural use area, wooded or open land  
7 used for pasture, or a wooded area used for timber harvest,  
8 ensure that proper management and conservation practices are  
9 being applied to the surrounding land.

10 Subp. 3. **Agricultural land occupier.** A land occupier of  
11 agricultural land is not violating subparts 1 and 2 if the  
12 district report, as developed through part 8400.4040, subpart 3,  
13 shows that the existing farming practices and methods being  
14 applied are effectively controlling soil loss.

15 Subp. 4. **Development activity.** A person engaged in a  
16 development activity that will disturb over one acre of land  
17 must submit a sedimentation control plan and time schedule that  
18 will prevent excessive soil loss or sediment from damaging  
19 adjacent land, bodies of water, watercourses, or wetlands, to  
20 the local government for its approval.

21 Subp. 5. **Road construction and maintenance.** A land  
22 occupier engaged in federal, state, county, ~~or~~ municipal, or  
23 township road construction and maintenance is not violating  
24 subpart 1 if the road construction and maintenance is designed  
25 and installed according to Department of Transportation standard  
26 specifications for construction and maintenance.

27 8400.4037 PROCEDURE FOR DEVELOPMENT ACTIVITY.

28 Subpart 1. **Submission of sedimentation control plan and**  
29 **time schedule.** A land occupier shall submit a sedimentation  
30 control plan and time schedule to the local government for  
31 approval prior to beginning any development activity which will  
32 disturb over one acre of land.

33 Subp. 2. **Specification of methods.** A sedimentation  
34 control plan and time schedule must specify how the movement of  
35 soil and damage to other lands and regions will be minimized

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1 during the construction process. ~~These methods~~ A sedimentation  
2 control plan and time schedule must address the items in part  
3 8400.4025, subpart 3. Urban conservation practices in a  
4 sedimentation plan may include, but are not limited to, the use  
5 of temporary seeding, fabric fiber mats barriers, plastic, straw  
6 mulch, sediment control basins, or other measures conservation  
7 practices adequate to prevent erosion and sediment damage.

8 Subp. 3. **Conformance with local ordinances.** Any method  
9 used in controlling sedimentation developed for the  
10 sedimentation control plan must not violate any existing  
11 ordinance the local government is enforcing.

12 Subp. 4. **Review of plan and schedule.** The local  
13 government may appoint the zoning or planning director, ~~county~~  
14 ~~auditor~~, building inspector, engineer, or district to review the  
15 sedimentation control plan and time schedule. The local  
16 government must forward the sedimentation control plan and time  
17 schedule to the appointed reviewer within seven days of  
18 receiving the sedimentation control plan and time schedule from  
19 the land occupier.

20 Subp. 5. **Time for review.** The appointed reviewer shall  
21 review the ~~sedimentation~~ control plan and time schedule within  
22 21 days of receiving the plan from the local government. The  
23 local government shall notify the land occupier of its decision  
24 after receipt of comments from the reviewer and no more than 28  
25 days after receiving the sedimentation control plan and time  
26 schedule from the land occupier.

27 Subp. 6. **Issuance of permit.** If the reviewer determines  
28 that the sedimentation control plan and time schedule will  
29 prevent sedimentation, the local government shall issue a permit  
30 that authorizes the development activity contingent upon the  
31 implementation of the sedimentation control plan and time  
32 schedule.

33 Subp. 7. **Denial of permit.** If the reviewer determines  
34 that the sedimentation control plan and time schedule does not  
35 control sedimentation, the local government shall not issue a  
36 permit for the development activity. The sedimentation control

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1 plan and time schedule must be resubmitted for approval before  
2 the development activity begins.

3 Subp. 8. **Penalty.** A land occupier engaged in a  
4 development activity who does not obtain an approved  
5 sedimentation control plan and time schedule or does not  
6 commence or complete the plan or make satisfactory progress to  
7 complete the plan is subject to a civil penalty and the local  
8 government shall file the complaint with the county attorney.

9 8400.4040 PROCEDURE FOR AGRICULTURAL ACTIVITIES.

10 Subpart 1. **Complaint.** Adversely affected land occupiers,  
11 elected or duly appointed officials of the local government, or  
12 district board members may submit a signed written complaint to  
13 the local government if conditions exist that indicate there is  
14 excessive soil loss from a tract of land. The local government  
15 shall submit the complaint to the district for soil loss  
16 determination. The local government shall notify the alleged  
17 offending land occupier of the complaint and that the district  
18 will be contacting the land occupier to review the site,  
19 determine the severity of the problem, and assist the land  
20 occupier in correcting the problem. The local government shall  
21 also name a contact person for further assistance.

22 The signed written complaint must include:

- 23 A. the name and address of the alleged offending land
- 24 occupier;
- 25 B. the location of the tract of land with the alleged
- 26 excessive soil loss;
- 27 C. other land or water that is allegedly being
- 28 affected by the excessive soil loss; and
- 29 D. a description of the nature of the alleged
- 30 excessive soil loss and resulting sedimentation.

31 Subp. 2. **Determination.** Upon request by the local  
32 government, the district shall determine the average annual soil  
33 loss in tons per acre per year of the tract of land cited in the  
34 complaint. The district may enter public or private land to  
35 make an inspection for the determination of soil loss or to

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1 complete the report. The district shall notify the land  
2 occupier of the time of the inspections and give the land  
3 occupier an opportunity to be present when the inspection is  
4 made.

5 The notice must:

6 A. be given ten days prior to the date of the  
7 inspection;

8 B. be delivered either by personal service or  
9 certified mail; and

10 C. if the owner of the property and the occupier of  
11 the residence differ, be delivered to both the owner and the  
12 occupier.

13 Subp. 3. Report. The district shall submit a report to  
14 the local government that states the average soil loss in tons  
15 per acre per year for each tract of land and if that soil loss  
16 is excessive under the applicable soil loss limits.

17 If the soil loss is excessive, the report must include  
18 identification of existing farming practices and a preliminary  
19 conservation plan and time schedule that will prevent excessive  
20 soil loss ~~or reduce the soil loss on that tract of land.~~

21 If the report shows that soil loss from the tract of land  
22 is equal to or below the soil loss tolerance for that soil  
23 series, the local government shall dismiss the complaint and  
24 notify the land occupier.

25 Subp. 4. Notification of excessive soil loss. If the  
26 local government finds that excessive soil loss is occurring, it  
27 must give written notification to the land occupier. The  
28 notification must:

29 A. describe the land and state the extent to which  
30 soil loss exceeds the soil loss limits;

31 B. be delivered within ten days of the local  
32 government's decision;

33 C. be delivered either by personal service or by  
34 certified mail; and

35 D. state a time, not more than 90 days after the date  
36 of delivery of the order, by which mediation must be commenced.

1 Subp. 5. **Mediation.** If the district report shows that  
2 soil loss from a tract of land is excessive and conservation  
3 practices are available to reduce the soil loss, the local  
4 government ~~may~~ shall request the offending land occupier to  
5 participate in mediation with the local government. The local  
6 government may appoint the planning and zoning director, a  
7 planning commissioner, or other official to act as mediator.  
8 The local government also may contract with a private mediation  
9 center to provide mediation services.

10 The land occupier and local government must attempt to  
11 agree on a conservation plan and time schedule that will reduce  
12 soil loss to the acceptable limits set by a local soil loss  
13 limits ordinance.

14 A mediated settlement must be approved by the local  
15 government and land occupier, put in writing, and filed with the  
16 county.

17 8400.4045 COST-SHARE FUNDS FOR A MEDIATED SETTLEMENT.

18 When the local government approves the mediated written  
19 agreement, the land occupier has 90 days to apply for state  
20 cost-share funds that will provide 75 percent of the cost of the  
21 permanent conservation practices.

22 If the land occupier does not apply for cost-share funds  
23 within 90 days after the local government approves the mediated  
24 written agreement, only 50 percent cost-share funds may be  
25 provided. The land occupier must apply for 50 percent  
26 cost-share funds within 270 days after the mediated written  
27 agreement is approved.

28 The method of application and eligibility requirements for  
29 state cost-share funds must follow parts 8400.0100 to  
30 8400.2900. If any other state or federal cost-share funds are  
31 used, the method of application and eligibility requirements  
32 must follow the current state or federal guidelines.

33 8400.4050 PENALTY.

34 If a land occupier does not comply with the provisions of  
35 the notification or mediated written agreement, the land

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1 occupier is subject to a civil penalty up to \$500.

2 The local government shall file the complaint with the  
3 county attorney.

4 8400.4055 HEARING PROCEDURE.

5 If the land occupier and local government do not reach a  
6 mediated written agreement or if the land occupier has refused  
7 mediation, the local government shall forward the complaint to  
8 the county attorney. The county attorney may petition the  
9 district court for a hearing.

10 At the hearing, the land occupier may present a  
11 conservation plan and time schedule as an alternative to the  
12 conservation plan and time schedule developed by the local  
13 government. The court shall review both plans and order the  
14 land occupier to implement the conservation plan and time  
15 schedule that will reduce soil loss to at least the soil loss  
16 limit. The court may choose to amend the conservation plan and  
17 time schedule developed by the local government or land occupier  
18 or develop a new conservation plan and time schedule.

19 The settlement must be put in writing and filed with the  
20 appropriate county official.

21 8400.4060 COST-SHARE FUNDS FOR A COURT ORDER.

22 Subpart 1. **Alternative plans.** If the court orders the  
23 implementation of the land occupier's conservation plan and time  
24 schedule, an amended conservation plan and time schedule, or a  
25 new conservation plan and time schedule, the offending land  
26 occupier is eligible to apply for 75 percent cost-share funds  
27 for permanent conservation practices on that tract of land.

28 The land occupier must apply for those cost-share funds  
29 within 90 days after the court order. If the land occupier does  
30 not apply for the cost-share funds within 90 days, the  
31 cost-share funds are reduced to 50 percent. The court shall  
32 establish a time when the land occupier is no longer eligible  
33 for cost-share funds at 50 percent.

34 The method of application and eligibility requirements for  
35 state cost-share funds must follow parts 8400.0100 to

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1 8400.2900. If any other state or federal cost-share funds are  
2 used, the method of application and eligibility requirements  
3 must follow the current state or federal guidelines.

4 Subp. 2. **Local government plan.** If the court orders the  
5 implementation of the conservation plan and time schedule  
6 developed by the local government, the offending land occupier  
7 is eligible for only 50 percent cost-share funds for permanent  
8 conservation practices on that tract of land. To qualify for  
9 those cost-share funds, the land occupier must apply for those  
10 cost-share funds within 90 days after the court order.

11 The method of application and eligibility requirements for  
12 state cost-share funds must follow parts 8400.0100 to  
13 8400.2900. If any other state or federal cost-share funds are  
14 used, the method of application and eligibility requirements  
15 must follow the current state and federal guidelines.

16 8400.4065 PENALTY.

17 A land occupier who does not comply with a court-ordered  
18 agreement is subject to a civil penalty up to \$500.

19 8400.4070 ESTABLISHMENT OF COST-SHARE FUNDS.

20 Except for a development activity, a land occupier may  
21 apply for cost-share funds in the amounts set in parts 8400.4045  
22 and 8400.4060. If cost-share funds are not currently available,  
23 the land occupier and the district shall enter into a priority  
24 cost-share assistance contract for future cost-share funds. The  
25 priority cost-share assistance contract must state the  
26 percentage of cost-share funds as set in parts 8400.4045 and  
27 8400.4060. With the approval of the priority cost-share  
28 assistance contract, the land occupier is considered to be in  
29 compliance with the mediated or court ordered agreement.

30 The priority cost-share assistance contract, prepared by  
31 the commissioner of agriculture, is incorporated by reference.  
32 This document is subject to frequent change and is available at  
33 the state law library.

34 8400.4075 VARIANCES.

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1 Subpart 1. **Land occupier variance.** A land occupier may  
2 petition the local government for a variance from part 8400.4040  
3 due to economic hardship or technical infeasibility.

4 Subp. 2. Request Local government variances. If a local  
5 government feels that a particular requirement of parts  
6 8400.4000 to 8400.4070 prevents conservation practices or  
7 sedimentation control practices from being installed, a written  
8 request for a variance may be filed with the board. The request  
9 must contain:

10 A. the name and address of the local government  
11 making the request and the signature of the appropriate  
12 personnel;

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

17 C. a statement of alternatives for dealing with  
18 installation of the affected practices if the variance is not  
19 granted; and

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

22 ~~Subp. 2-~~ 3. Decision. Local government variance requests  
23 must be submitted to the board at least 30 days prior to the  
24 board meeting at which the variance is to considered. Within 45  
25 days after the meeting, the board must approve or deny the  
26 variance request and provide written notification of the  
27 decision to the applicant. A variance may not be granted if it  
28 is in conflict with any statute.

29 ~~Subp. 3-~~ 4. Modifications. If a variance has been granted  
30 by the board, the local government holding the variance may file  
31 with the board, at any time, a written request for modification  
32 or amendment of the variance. The request for modification or  
33 amendment and the board's consideration of the request must  
34 comply with this part.

35 8400.4080 MODEL ORDINANCE.

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[REVISOR ] CEL/AT AR0805

1       The model ordinance, prepared by the commissioner of  
2 agriculture, in consultation with counties, districts, and other  
3 appropriate agencies, pursuant to Minnesota Statutes, section  
4 40.21, subdivision 1, is incorporated by reference. That  
5 document may be subject to change and is available at the state  
6 law library.

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