

1 Department of Agriculture

2

3 Adopted Permanent Rules Relating to Department of Agriculture,
4 Reinvest in Minnesota (RIM) Reserve Program

5

6 Rules as Adopted

7

DEPARTMENT OF AGRICULTURE

8

RIM RESERVE PROGRAM

9 8400.3000 AUTHORITY.

10 Minnesota Statutes, sections 40.40 to 40.45 and 84.95,
11 authorize the commissioner, in cooperation with the state board,
12 districts, state and local private groups, and state and federal
13 agencies, to implement a program of retiring certain
14 agricultural land from crop production and establishing on that
15 land permanent vegetative cover, restoring altered wetlands, or
16 establishing windbreaks adjacent to highways. Parts 8400.3000
17 to 8400.3930 provide procedures and criteria to be followed by
18 the commissioner, state board, and district boards in
19 implementing Minnesota Statutes, sections 40.40 to 40.45.

20 8400.3030 DEFINITIONS.

21 Subpart 1. **Scope.** The definitions in this part apply to
22 parts 8400.3000 to 8400.3930.

23 Subp. 2. **Agricultural crop production.** "Agricultural crop
24 production" means an agricultural activity:

25 A. including but not limited to tillage, planting, or
26 harvesting operations; and

27 B. devoted to the production of horticultural, row,
28 close grown, introduced pasture, or introduced hayland crops.

29 Subp. 3. **Altered wetland.** "Altered wetland" means a
30 former natural wetland that has been altered by draining,
31 dredging, filling, leveling, or other manipulation sufficient to
32 render the land suitable for agricultural crop production. The
33 alteration must have occurred before December 23, 1985, and must
34 be a legal alteration as determined by the Department of Natural
35 Resources.

1 Subp. 4. **Annual plan.** "Annual plan" means a plan prepared
2 by the district under Minnesota Statutes, section 40.07,
3 subdivision 9, and according to the most recent version of the
4 Guidelines for Soil and Water Conservation District
5 Comprehensive and Annual Plans published by the state board.
6 That publication is subject to frequent change. The most recent
7 version is available at the district office and state board
8 office and is incorporated by reference.

9 Subp. 5. **Approved practice.** "Approved practice" means a
10 soil and water conservation practice that qualifies for RIM
11 reserve program funding. All approved practices are described
12 in the RIM reserve conservation practice specifications.

13 Subp. 6. **Authorized farm corporation.** "Authorized farm
14 corporation" has the meaning given in Minnesota Statutes,
15 section 500.24, subdivision 2.

16 Subp. 7. **Beginning farmer program.** "Beginning farmer
17 program" means the program created by Minnesota Statutes,
18 section 41B.039.

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

21 Subp. 9. **Conservation agreement.** "Conservation agreement"
22 means a written contract stating the terms and conditions for
23 conveying the conservation plan and the conservation easement by
24 the landowner to the commissioner.

25 Subp. 10. **Conservation easement, easement.** "Conservation
26 easement" or "easement" has the meaning given for "conservation
27 easement" in Minnesota Statutes, section 84C.01, paragraph (1).

28 Subp. 11. **Conservation plan.** "Conservation plan" means a
29 written description of the approved practices that must be
30 applied to the easement area.

31 Subp. 12. **Crop history.** "Crop history" means a sequence
32 of agricultural crop production that includes at least one of
33 the following activities on an annual basis: tillage, planting,
34 or harvesting. For purposes of this part, land with a crop
35 history includes acres devoted to "set-aside" and "conserving
36 use" for the United States Department of Agriculture programs.

1 Subp. 13. **Cropland.** "Cropland" means an area devoted to
2 agricultural crop production.

3 Subp. 14. **District.** "District" means a local soil and
4 water conservation district organized under Minnesota Statutes,
5 section 40.04.

6 Subp. 15. **District board.** "District board" means the five
7 supervisors of a district authorized to carry out the functions
8 of the district.

9 Subp. 16. **District cooperator.** "District cooperator"
10 means a landowner who has requested the assistance of a district
11 board in ~~controlling~~ solving conservation problems and has
12 entered into a written cooperator's agreement with the district
13 board.

14 Subp. 17. **District technician.** "District technician"
15 means a district employee or other nonfederal employee assigned
16 to the district who has expertise in the design and application
17 of soil and water conservation practices.

18 Subp. 18. **Enduring practice.** "Enduring practice" means a
19 soil and water conservation practice that is designed for an
20 effective life of 20 years or more.

21 Subp. 19. **Family farm.** "Family farm" has the meaning
22 given in Minnesota Statutes, section 500.24, subdivision 2.

23 Subp. 20. **Family farm corporation.** "Family farm
24 corporation" has the meaning given in Minnesota Statutes,
25 section 500.24, subdivision 2.

26 Subp. 21. **Farm operation.** "Farm operation" means property
27 owned or leased in Minnesota by the landowner that is associated
28 with farming.

29 Subp. 22. **Farming.** "Farming" has the meaning given in
30 Minnesota Statutes, section 500.24, subdivision 2.

31 Subp. 23. **Food plot.** "Food plot" means an area
32 established annually for the purpose of providing food for
33 wildlife.

34 Subp. 24. **Highway windbreak.** "Highway windbreak" means a
35 strip or belt of trees, shrubs, or grass barriers at least six
36 rows deep and within 300 feet of the right-of-way of a highway.

1 Grass barriers must be used in conjunction with trees and shrubs.

2 Subp. 25. **Hydric soil.** "Hydric soil" means a soil in its
3 natural undrained condition that is saturated at or near the
4 surface or flooded frequently during much of the growing season,
5 and that can support hydrophytic vegetation. The current list
6 of hydric soils is available at the state law library and the
7 district office, is subject to frequent change, and is
8 incorporated by reference.

9 Subp. 26. **Hydrophytic vegetation.** "Hydrophytic vegetation"
10 means herbaceous or woody plants that grow in water, in wet or
11 saturated soils, or in soils that are at least periodically
12 deficient in oxygen as a result of excess water.

13 Subp. 27. **Individual.** "Individual" means a person or
14 legal entity, whether or not a resident of Minnesota.

15 Subp. 28. **Inherently unproductive.** "Inherently
16 unproductive" means that the soil properties of available water
17 capacity, bulk density, and pH in the uppermost 100 centimeters
18 (39 inches) of a soil, are present so that an unfavorable
19 rooting environment exists for agronomic crops.

20 Subp. 29. **Introduced hayland.** "Introduced hayland" means
21 an area devoted to the production of forage and cultivated in a
22 rotation of row crops or small grains or interseeded with
23 introduced or ~~nonnative~~ native species at least twice during the
24 period 1976 to 1985. These areas must be harvested by
25 mechanical methods at least two years during the period 1981 to
26 1985. These areas are considered to be in agricultural crop
27 production.

28 Subp. 30. **Introduced pasture.** "Introduced pasture" means
29 an area devoted to the production of forage and cultivated in a
30 rotation of row crops or small grains or interseeded with
31 introduced or ~~nonnative~~ native species at least twice during the
32 period 1976 to 1985. These areas must be harvested by grazing
33 at least two years during the period 1981 to 1985. These areas
34 are considered to be in agricultural crop production.

35 Subp. 31. **Landowner.** "Landowner" means an individual,
36 family farm, family farm corporation, or authorized farm

1 corporation who either owns eligible land or is purchasing
2 eligible land under a contract for deed in Minnesota.

3 Subp. 32. **Local emergency.** "Local emergency" means an
4 emergency declared under Minnesota Statutes, section 12.29.

5 Subp. 33. **Marginal agricultural land.** "Marginal
6 agricultural land" for the RIM reserve program means land with
7 cropland soils that are inherently unproductive for agricultural
8 crop production or subject to significant potential soil
9 productivity loss from erosion. For the beginning farmer
10 program, "marginal agricultural land" means land in the land
11 capability classes ~~6-to-8~~ VI to VIII, as defined by the United
12 States Department of Agriculture, Agricultural Handbook Number
13 210. This publication is available at the state law library and
14 at district offices, is not subject to frequent change, and is
15 incorporated by reference. The state board shall provide
16 districts with a list of soil mapping units indicative of
17 marginal agricultural land. Districts may change the list as
18 necessary to reflect local soil characteristics. Changes must
19 be approved by the commissioner and the state board. This list,
20 with changes, is available at the state law library and at
21 district offices, is subject to frequent change, and is
22 incorporated by reference.

23 Subp. 34. **Natural vegetation.** "Natural vegetation" means
24 plant species including, but not limited to, grasses, trees,
25 shrubs, or hydrophytic vegetation that form an area's
26 noncultivated plant community, excluding the area immediately
27 adjacent to buildings. An area is not considered in natural
28 vegetation if it has been in agricultural crop production for at
29 least one year since January 1, 1981.

30 Subp. 35. **Nonproduction practice.** "Nonproduction practice"
31 means a soil and water conservation practice that is installed
32 or applied to control soil erosion or sedimentation, protect or
33 improve water quality, or create or enhance wildlife habitat.
34 Practices installed or applied primarily to bring land into
35 production or to increase short-term productivity are not
36 nonproduction practices.

1 Subp. 36. Permanent cover. "Permanent cover" means the
2 water area created by a restored wetland and the permanent
3 vegetative cover established under the RIM reserve program.

4 Subp. 37. Present value. "Present value" means the value
5 today of an amount that would have been received later, at a
6 discount rate established annually by the commissioner.

7 Subp. 38. Protected water. "Protected water" means public
8 waters or wetlands, as defined in Minnesota Statutes, section
9 105.37, and inventoried under Minnesota Statutes, section
10 105.391. A copy of the inventory is available in the district
11 office.

12 Subp. 39. Public access. "Public access" means the right
13 of individuals to enter and exit private property. Under the
14 RIM reserve program, public access is controlled by the
15 landowner.

16 Subp. 40. Restored wetland. "Restored wetland" means an
17 altered wetland restored under the RIM reserve program if the
18 wetland meets the definition of a wetland in subpart 48.

19 Subp. 41. RIM reserve conservation practice specifications.
20 "RIM reserve conservation practice specifications" means the
21 current edition of the Minnesota Department of Agriculture
22 publication containing detailed descriptions of the approved
23 conservation practices found in part 8400.3660. This
24 publication is subject to frequent change, is available at the
25 state law library and at district offices, and is incorporated
26 by reference.

27 Subp. 42. RIM reserve program. "RIM reserve program"
28 means the Reinvest in Minnesota Resources Conservation Reserve
29 program established in Minnesota Statutes, sections 40.41 to
30 40.45.

31 Subp. 43. Screening committee. "Screening committee"
32 means a group established by the district board to assist in
33 implementing the RIM reserve program. The screening committee
34 is chaired by a district board member and is composed of
35 representatives of private, state, and local organizations or
36 clubs, and local, state, and federal agencies with an interest

1 in the RIM reserve program. A request for participation must be
2 sent by the district at least annually to the: Minnesota
3 Department of Natural Resources, Minnesota Pollution Control
4 Agency, United States Agricultural Stabilization and
5 Conservation Service, United States Fish and Wildlife Service,
6 and United States Soil Conservation Service.

7 Subp. 44. **Significant potential soil productivity loss.**

8 "Significant potential soil productivity loss" means that soil
9 productivity loss due to erosion may occur in a short time
10 unless soil and water conservation practices are initiated to
11 control soil erosion. The method of calculation combines the
12 rating of a soil as a rooting environment with landscape
13 characteristics that represent erosion potential.

14 Subp. 45. **Soil and water conservation practice.** "Soil and

15 water conservation practice" means an approved conservation
16 practice applied to land to control soil erosion, sediment, or
17 other water pollutants as described in the RIM reserve
18 conservation practice specifications.

19 Subp. 46. **Soil mapping unit.** "Soil mapping unit" means a

20 unit or type of soil or combination of soils shown on a soil
21 survey map.

22 Subp. 47. **State board.** "State board" means the Board of

23 Water and Soil Resources.

24 Subp. 48. **Wetland.** "Wetland" means land that has a

25 predominance of hydric soils and that is inundated or saturated
26 by surface or groundwater at a frequency and duration sufficient
27 to support, or that periodically does support, a prevalence of
28 hydrophytic vegetation typically adapted for life in saturated
29 soil conditions, including wetlands as defined in Minnesota
30 Statutes, section 105.37.

31 8400.3060 CRITERIA FOR ALLOCATION OF FUNDS.

32 The commissioner shall allocate funds to participating
33 district boards through the state board based on the following
34 criteria:

- 35 A. the number of applications recommended for

1 approval by the district board;

2 B. the proportion of marginal agricultural land in
3 the district as compared to state totals;

4 C. the potential for restoring wetlands;

5 D. the need for highway windbreaks;

6 E. the need for soil erosion or sediment control,
7 protection or improvement of water quality, or improvement of
8 fish and wildlife habitat; and

9 F. the expressed interest and readiness of the
10 district board, cooperating groups, and agencies to implement
11 the program.

12 The allotted funds may be increased, decreased, or shifted
13 as necessary to maximize the use of funds among districts.

14 8400.3100 ADMINISTRATION OF FUNDS.

15 The participating district board is responsible for
16 administration of the funds in accordance with Minnesota
17 Statutes, sections 40.40 to 40.45 and other applicable laws.
18 The district board may make recommendations concerning use of
19 these funds in accordance with parts 8400.3000 to 8400.3930.

20 8400.3130 PRIORITY SETTING.

21 Annually, before considering any applications from
22 landowners, the participating district board shall call a
23 screening committee meeting. The screening committee must
24 establish priority areas within the district. Establishment of
25 priority areas must be based on the following criteria:

26 A. the location of high priority soil erosion or
27 water quality problem areas in the district as outlined in the
28 district comprehensive and annual plans;

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

31 C. recommendations from technical agricultural and
32 natural resource experts familiar with the district;

33 D. the established priorities of the agencies and
34 organizations represented on the screening committee;

35 E. maximizing the benefits of current programs

1 administered by the United States Agricultural Stabilization and
 2 Conservation Service, United States Fish and Wildlife Service,
 3 and Minnesota Department of Natural Resources; and

4 F. the amount of RIM reserve program funds available.

5 8400.3160 CRITERIA FOR ELIGIBLE LAND.

6 Land eligible for the RIM reserve program must meet at
 7 least one of the following criteria:

8 A. The land is marginal agricultural land.

9 B. The land is agricultural land adjacent to marginal
 10 agricultural land that is being enrolled if enrollment of the
 11 adjacent land is beneficial to resource protection or necessary
 12 for efficient recording of the land description and if at least
 13 50 percent of the total proposed acreage is marginal
 14 agricultural land.

15 C. The land is an altered wetland and cropland
 16 adjacent to the altered wetland, with up to four acres of
 17 ~~nonmarginal~~ adjacent cropland for each acre of wetland restored.

18 D. The land is land that with a highway windbreak
 19 would control snow drifting and be beneficial to resource
 20 protection.

21 In addition, eligible land must have all of the following
 22 characteristics:

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

25 (2) was owned by the landowner on January 1,
 26 1985, or was owned by the landowner, or a parent or other blood
 27 relative of the landowner, for at least three years before the
 28 date of application;

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

32 (4) is not set-aside, enrolled, or diverted under
 33 another federal or state government land retirement program
 34 including, but not limited to, federal conservation reserve,
 35 federal production adjustment set-aside, or state or federal

1 water bank; and

2 (5) is physically possible to crop, except for
3 altered wetlands.

4 8400.3200 MAXIMUM ENROLLMENT.

5 The total enrolled land of a landowner in the RIM reserve
6 program may not exceed 20 percent of the landowner's total
7 agricultural land acreage in Minnesota, if the landowner owns at
8 least 200 acres of agricultural land. If a landowner owns less
9 than 200 acres of agricultural land, the amount that may be
10 enrolled in the conservation reserve is:

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

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

16 The total enrolled land of a landowner in the beginning
17 farmer program may not exceed 20 percent of the total
18 agricultural acreage of the enrolled farm operation.

19 8400.3230 APPLICATION BY LANDOWNERS.

20 Landowners interested in participating in the RIM reserve
21 program must submit an application to the appropriate district
22 office in which the land is located, during the application
23 period established by the commissioner, and on forms provided by
24 the commissioner. The landowner must complete the application
25 in its entirety along with any supportive information required
26 for proper consideration of the application. The supportive
27 information includes, but is not limited to:

28 A. crop history of the parcel;

29 B. total agricultural acres owned by the applicant in
30 Minnesota;

31 C. aerial photographs or a sketch of the parcel; and

32 D. description of other land owned or leased as part
33 of the same farm operation at the time of application.

34 The district technician shall make an initial determination
35 of easement eligibility at the time of application.

1 Applications having questionable eligibility must be referred to
2 the district board for eligibility determination. Providing
3 proof of eligibility is the responsibility of the landowner.
4 The district technician shall develop a cost estimate for the
5 easement and approved practices for all eligible applications.
6 Other organizations and agencies may be requested to provide
7 technical assistance in preparing cost estimates.

8 8400.3260 LAND IN MORE THAN ONE DISTRICT.

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

13 8400.3300 CRITERIA FOR SCREENING COMMITTEE REVIEW.

14 Upon completion of the application period and initial
15 eligibility determination by the district technician, the
16 screening committee shall confer and prioritize each eligible
17 application. The criteria for screening committee
18 prioritization are as follows:

19 A. consistency with the purpose and policy of the RIM
20 reserve program;

21 B. the parcel's relationship to the priority areas
22 previously determined in part 8400.3130;

23 C. the parcel's potential impact on reducing soil
24 erosion and sedimentation, improving water quality, and
25 enhancing fish and wildlife habitat;

26 D. potential title problems and encumbrances;

27 E. compatibility with established priorities of the
28 organizations and groups represented; and

29 F. highest priority must be given to permanent
30 easements that are consistent with Minnesota Statutes, section
31 40.41.

32 All eligible applications must be prioritized with
33 recommendations and submitted to the district board for review.
34 Applications with eligibility questions must be referred to the
35 district board for eligibility determination before screening

1 committee prioritization.

2 8400.3330 CRITERIA FOR DISTRICT BOARD REVIEW.

3 Upon the receipt of the applications with screening
4 committee prioritization, the district board shall meet and
5 review the applications. Criteria for district board review are
6 as follows:

7 A. criteria in part 8400.3300 used in screening
8 committee review;

9 B. compatibility with district plans and priorities;
10 and

11 C. availability of funds from RIM reserve and other
12 sources.

13 8400.3360 DISTRICT ACTION ON APPLICATIONS.

14 Upon completion of district board review of the eligible
15 applications, the following action must be taken:

16 A. Applications approved for further processing are
17 designated as approved and must be signed by the district chair
18 or acting chair.

19 B. High priority applications for which there are
20 insufficient funds are designated as pending, with the consent
21 of the landowner. These applications may be held in a pending
22 status for up to 60 days while additional funds are sought.

23 C. Applications not eligible or not of sufficient
24 priority are designated as denied. The reason for the denial
25 must be stated on the application.

26 D. The district board shall notify all applicants in
27 writing of their application designation status within 30 days
28 after the end of the application period.

29 E. ~~All~~ Denied applications must be kept at the
30 district office for a minimum of three years for future
31 reference.

32 F. When district board action results in
33 prioritization differing from the screening committee
34 recommendations, the screening committee must be notified within
35 30 days in writing by the district board.

1 8400.3400 CONSERVATION AGREEMENT FOR EASEMENT.

2 The district board shall develop a conservation agreement
3 for all approved applications in which the landowner agrees to:

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

6 B. establish and maintain permanent cover and other
7 conservation practices on the land subject to the easement as
8 described in the conservation plan approved by the commissioner,
9 which is incorporated into the conservation easement;

10 C. convey to the state a permanent wetland
11 restoration easement when an altered wetland is being restored;

12 D. not convert to agricultural crop production or
13 introduced pasture any other land supporting natural vegetation
14 owned or leased as part of the same farm operation ~~during the~~
15 ~~term of the easement~~ at the time of application, if those lands
16 support natural vegetation or have not been used in agricultural
17 crop production or introduced pasture;

18 E. the enforcement of the terms of the easement and
19 agreements by an action for specific performance, a mandatory
20 injunction, or for damages in an amount not to exceed the total
21 amount paid by the state to the landowner, with interest from
22 the date of each default under the agreement or any combination
23 of these remedies;

24 F. not alter wildlife habitat, natural features, or
25 the vegetative cover and other conservation practices
26 established in the conservation plan, except by the prior
27 written approval of the commissioner;

28 G. not produce agricultural crops, unless approved by
29 the commissioner for wildlife management purposes;

30 H. not graze livestock except with the prior written
31 approval of the commissioner, after consultation with the
32 commissioner of the Department of Natural Resources, in the case
33 of severe drought or a local emergency;

34 I. be responsible for weed control and not to spray
35 with chemicals or mow, except as necessary to comply with

1 noxious weed control laws, or emergency control of pests
2 necessary to protect public health, or to maintain permanent
3 vegetative cover as approved by the district;

4 J. restore the easement area to the condition
5 described in the conservation plan after any lawful repair or
6 improvement of a public drainage system;

7 K. notify the commissioner in writing at least 30
8 days before the conveyance of all or part of the title or
9 interest in the land in which the easement area is located by
10 providing the names and addresses of the grantees, assignees, or
11 heirs;

12 L. pay, when due, all taxes and assessments that may
13 be levied against the easement area;

14 M. the running of the easement with the land and its
15 being binding on all persons and entities who come into
16 ownership or possession of the affected lands;

17 N. not place, erect, or construct temporary or
18 permanent structures on the easement area;

19 O. allow the commissioner and the commissioner's
20 employees and agents to enter the easement area for the purposes
21 of inspection or enforcement of the terms and conditions of the
22 easement; and

23 P. undertake the protection and management of the
24 easement area in accordance with the conditions in the easement.

25 The conservation agreement must be recordable and on forms
26 approved by the commissioner.

27 8400.3430 PROCEDURE FOR REVIEW OF CONSERVATION AGREEMENT.

28 After the conservation agreement has been developed by the
29 district board, the unsigned agreement must be processed as
30 follows:

31 A. It must be reviewed by a representative of the
32 state board.

33 B. It must have a review and determination by the
34 commissioner.

35 C. The landowner must be notified of the

1 commissioner's decision.

2 D. If it is approved by the commissioner, the
3 agreement must be given to the landowner for signature.

4 E. The agreement must be returned to the commissioner
5 for signature by the necessary state officials and encumbrance
6 of state funds.

7 F. A copy of the signed agreement must be provided to
8 the landowner.

9 8400.3460 ABSTRACT AND TITLE REQUIREMENTS.

10 After notification of the commissioner's signing of the
11 conservation agreement, the landowner, at the landowner's
12 expense, shall deliver to the district office an original
13 up-to-date abstract of title or registered property abstract,
14 with certifications as to liens, bankruptcies, real estate
15 taxes, and judgments. The landowner must have good and
16 marketable title, not subject to any prior liens or
17 encumbrances, as determined by the Attorney General, or an
18 insurable title under a title insurance policy, not subject to
19 any prior liens or encumbrances, approved by the Attorney
20 General. Any title defect, liens, or encumbrances must be
21 promptly removed or corrected by the landowner including, but
22 not limited to, the following: lien waivers, releases or
23 consent and subrogation from mortgagees, release or satisfaction
24 of judgments, and receipt for payment of delinquent real estate
25 taxes. The landowner's abstract of title must be returned to
26 the landowner.

27 8400.3500 EASEMENT CONVEYANCE.

28 Upon delivery and recording of a properly executed
29 conservation easement, approved by the commissioner, and the
30 vesting of the easement interest in the commissioner, not
31 subject to any prior lien or encumbrances, payment must be made
32 for the easement to the landowner, landowner's designees,
33 assignees, or heirs.

34 8400.3530 PAYMENT RATES.

1 Subpart 1. **Calculation.** The payment rate for the
2 conservation easement must be calculated according to subparts 2
3 to 4.

4 Subp. 2. **New easements.** For permanent easements, payments
5 are per acre figures derived from county average cash rent
6 adjusted for countywide variations in estimated township market
7 value. The figures are established on a township basis with the
8 lower of the following two values selected as the payment:

9 A. 100 percent of the present value of the derived
10 per acre figure calculated for perpetuity; or

11 B. 90 percent of estimated township market value.

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

17 For limited duration easements not less than 20 years in
18 length, payments are based on 65 percent of the permanent
19 easement payment.

20 Payment rates may be modified prior to the sign up by the
21 commissioner if the commissioner determines the rates
22 established above do not reflect current market values based on
23 the most recent land value market indicators.

24 The commissioner shall annually establish the discount rate
25 to be used for calculating present value. Average cash rent and
26 estimated market value are based on information provided by the
27 Department of Revenue in cooperation with local assessors.

28 Subp. 3. **Conversion to permanent easement.** When
29 converting limited duration easements to permanent easements,
30 the payment is the difference between the amount paid per acre
31 for the permanent easement as established for the most recent
32 sign-up period and the amount already paid for the limited
33 duration easement on the area.

34 Subp. 4. **Approved practices.** The payment rate for the
35 approved conservation practice to be applied to the easement
36 area is described in Minnesota Statutes, section 40.43,

1 subdivision 6.

2 8400.3560 PAYMENTS.

3 Payments for easements will be a one-time lump sum amount
4 unless the landowner requests a split payment for up to four
5 equal annual installments for which no interest is paid.

6 Payments may be assigned by the landowner.

7 8400.3600 EASEMENT RENEWAL AND CONVERSION.

8 A. When a conservation easement of limited duration
9 expires, a new conservation easement and agreement for an
10 additional period of not less than 20 years may be acquired by
11 agreement of the commissioner and the landowner under the rules
12 in force at that time. The commissioner may adjust payment
13 rates as a result of renewing an agreement and conservation
14 easement only after examining the condition of the established
15 cover, conservation practices, and land values.

16 B. The easement duration may be lengthened through
17 mutual agreement with the commissioners of the Departments of
18 Agriculture and Natural Resources if they determine that the
19 changes effectuate the purpose of the program or to facilitate
20 its administration.

21 8400.3630 CRITERIA FOR APPROVED PRACTICES.

22 Approved practices must be enduring in nature and have as
23 their primary purpose the control of soil erosion or
24 sedimentation, protection or improvement of water quality, or
25 creation or improvement of fish and wildlife habitat. The list
26 is contained in part 8400.3660 and is further specified in the
27 RIM reserve conservation practice specifications. Practices
28 under this program must be designed for a minimum effective life
29 of 20 years, be nonproduction practices, and have specifications
30 providing for the use of plant species and construction
31 techniques that provide quality fish and wildlife benefits.
32 Production practices that do not qualify as approved practices
33 include, but are not limited to, Christmas tree plantations and
34 fruit orchards. Food plots are not eligible for RIM reserve

1 cost-sharing, but are allowed on enrolled acres if they are
2 included in the conservation plan and approved by the
3 commissioner.

4 8400.3660 LIST OF APPROVED PRACTICES.

5 Approved practices include, but are not limited to:

- 6 A. permanent vegetative cover;
- 7 B. tree and shrub planting;
- 8 C. field windbreak;
- 9 D. highway windbreak;
- 10 E. stormwater control system;
- 11 F. diversion; and
- 12 G. structures for water control.

13 The approved practices are further described in the RIM
14 reserve conservation practice specifications.

15 8400.3700 ESTABLISHMENT OF APPROVED PRACTICES.

16 Subpart 1. Installation of approved practices.

17 Establishment of approved practices must be monitored by the
18 district board to ensure compliance with the easement. Upon
19 completion of an annual component or the entire plan a district
20 technician shall certify whether or not the practice has been
21 satisfactorily performed, including certification that the
22 practice meets the RIM reserve conservation practice
23 specifications. Upon certification of completion, the landowner
24 shall present documentation to the district of the costs
25 incurred in the installation of the practice in the form of
26 receipts or invoices.

27 Subp. 2. Costs for approved practices.

28 A. The district board shall review the receipts and
29 invoices provided by the landowner to determine the actual cost
30 eligible for RIM reserve payment. If the district board
31 determines that the claims are reasonable and practical, it
32 shall recommend payment to the landowner by submitting a
33 completed certification of practice completion and a cost-share
34 voucher to the commissioner. If the district board determines
35 that certain claims are not justified or not eligible, it shall

1 notify the landowner in writing of the unjustified claim within
2 30 days. The landowner may request reconsideration of this
3 determination by the district board within 15 days of receipt of
4 the determination. If additional eligible costs are justified,
5 the district board shall then recommend payment for the approved
6 amount.

7 B. The state is only financially obligated up to the
8 amount encumbered for each approved practice as stated in the
9 conservation plan attached to the conservation easement, and any
10 costs exceeding this amount are the responsibility of the
11 landowner.

12 C. If the actual cost of installing the approved
13 practices in the conservation plan are less than the encumbered
14 amount, the state shall only pay the applicable cost of the
15 installation in accordance with the limits in Minnesota
16 Statutes, section 40.43, subdivision 6, clauses (1) and (2).

17 D. The commissioner may encumber additional funds for
18 eligible costs if the additional encumbrance is consistent with
19 the purpose and policy of the RIM reserve program and the
20 maximum amounts in Minnesota Statutes, section 40.43,
21 subdivision 6, clauses 1 and 2, are not exceeded.

22 Subp. 3. **Payment for in-kind services.** In-kind services
23 provided by the landowner including, but not limited to,
24 earthwork, seedbed preparation, and seeding, may be credited to
25 the landowner's share of the total cost of the practice. The
26 district board shall determine whether charges for in-kind
27 services are practical and reasonable.

28 Subp. 4. **Funds from other sources.** RIM reserve funds may
29 be augmented by funds from other agencies, organizations, or
30 individuals. Securing these funds is the responsibility of the
31 landowner. Requirements for obtaining these funds are
32 determined by the contributor.

33 8400.3730 FAILURE OF APPROVED PRACTICES.

34 A landowner is not in violation of the conservation
35 easement if the failure of approved practices was caused by

1 reasons beyond the landowner's control such as extreme weather
2 conditions. In these instances, the district board may
3 recommend to the commissioner that additional RIM reserve funds
4 be encumbered for reinstallation of the approved practices. The
5 encumbrance must comply with the limits in Minnesota Statutes,
6 section 40.43, subdivision 6, clauses (1) and (2), and cannot
7 exceed the amount encumbered for the initial installation. In
8 no case may a district board provide financial assistance to a
9 landowner for the reapplication of approved practices that were
10 removed, altered, or failed due to improper maintenance during
11 the term of the easement.

12 8400.3760 MAXIMUM PAYMENT.

13 The commissioner may not pay more than \$50,000 total in RIM
14 reserve program funds to a landowner for all approved practices
15 and conservation easements. This is the maximum cumulative
16 amount that may be received over the landowner's lifetime.

17 8400.3800 MAINTENANCE.

18 A landowner is responsible for planting, establishment,
19 operation, and maintenance of approved practices described in
20 the conservation agreement and for ensuring that easement
21 restrictions are followed so that the easement's conservation
22 objective is met and the effective life of 20 or more years is
23 achieved.

24 8400.3830 VIOLATIONS.

25 The commissioner may enforce the easement and agreement by
26 the following legal action:

- 27 A. specific performance;
28 B. mandatory injunction;
29 C. damages in an amount not to exceed the total
30 amount paid by the state to the landowner from RIM reserve
31 funds, with interest from the date of each default; or
32 D. any combination of the above remedies.

33 The district board may recommend to the commissioner
34 appropriate measures to be taken to correct violations.

1 Easements remain in effect even if maintenance violations have
2 occurred.

3 8400.3860 MONITORING.

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

8 8400.3900 DISTRICT BOARD RECORDS.

9 The district shall maintain a current ledger of easements
10 on forms provided by the commissioner. The ledger must specify
11 the names of the landowners with whom the easements have been
12 developed, the approved practices involved, the status of
13 permanent cover establishment, the total of funds encumbered and
14 expended, the size and type of easements, and their effective
15 date.

16 8400.3930 RECONSIDERATION AND REVIEW.

17 Subpart 1. **Procedures.** Procedures for reconsideration and
18 review of applications are in subparts 2 to 4.

19 Subp. 2. **Reconsideration by district.** An affected
20 landowner may request the district board to reconsider its
21 recommendations that deny landowner acceptance under the RIM
22 reserve program by mailing a written request to the district
23 within 15 days of receipt of the notice of denial of
24 ineligibility, stating the specific reasons for claiming
25 eligibility or a higher priority and including additional
26 evidence to support the landowner's claims. The district shall
27 notify the landowner of the final recommendation of the district
28 board.

29 Subp. 3. **Review by state board.** An affected landowner may
30 request the state board to review, on the record, the final
31 recommendations of the district board that deny a landowner
32 eligibility under the RIM reserve program by mailing a written
33 request to the state board within 15 days after receipt of the
34 final recommendation of the district board, stating the specific

1 reasons for claiming eligibility, or a higher priority. The
2 state board shall notify the landowner and district board of its
3 recommendations.

4 Subp. 4. **Review by commissioner.** An affected landowner
5 may request the commissioner to review, on the record, the
6 recommendations of the state board that deny a landowner
7 eligibility under the RIM reserve program, by mailing a written
8 request to the commissioner within 15 days after receipt of the
9 state board recommendation, stating the specific reasons for
10 claiming eligibility, or a higher priority. The commissioner
11 shall notify the landowner of the commissioner's decision.