

1 Board of Water and Soil Resources

2

3 Adopted Permanent Rules Relating to the State Cost-Share Program

4

5 Rules as Adopted

6 8400.0050 PURPOSE.

7 The state cost-share program is administered through local
8 conservation districts to provide financial and technical
9 assistance to land occupiers for the application of conservation
10 practices that reduce erosion, control sedimentation, or improve
11 and protect water quality to ensure the sustainable use of
12 Minnesota's natural resources.

13 8400.0100 DEFINITIONS.

14 Subpart 1. **Scope.** For purposes of parts 8400.0050 to
15 8400.1800, the definitions in this part, in addition to those in
16 Minnesota Statutes, chapter 103C, apply.

17 Subp. 1a. [See repealer.]

18 Subp. 2. [See repealer.]

19 Subp. 2a. **Administrative Guidelines.** "Administrative
20 Guidelines" means the Administrative Guidelines for the State
21 Cost-Share Program, being the most current compilation of the
22 approved practices, practice guidelines, administrative
23 guidelines, and examples of administrative forms provided to
24 conservation districts by the state board to assist in locally
25 administering the state cost-share program. The publication is
26 not subject to frequent change, is available at the State Law
27 Library, and is incorporated by reference.

28 Subp. 3. **Annual plan.** "Annual plan" means a plan prepared
29 by the conservation district pursuant to Minnesota Statutes,
30 section 103C.331, subdivision 11, paragraph (f), and according
31 to the most recent version of the Guidelines for Soil and Water
32 Conservation District Comprehensive and Annual Plans published
33 by the state board. That publication is not subject to frequent
34 change, is available at the State Law Library, and is
35 incorporated by reference.

1 Subp. 4. **Approved practice.** "Approved practice" means a
2 conservation practice that qualifies for state cost-sharing and
3 that has been approved by the state board.

4 Subp. 5. [See repealer.]

5 Subp. 5a. **Comprehensive local water plan.** "Comprehensive
6 local water plan" means a local water plan authorized under
7 Minnesota Statutes, section 103B.311; a watershed overall plan
8 required under Minnesota Statutes, section 103D.401; a watershed
9 management plan required under Minnesota Statutes, section
10 103B.231; or a county groundwater plan authorized under
11 Minnesota Statutes, section 103B.255.

12 Subp. 6. [See repealer.]

13 Subp. 7a. [See repealer.]

14 Subp. 8. **Comprehensive plan.** "Comprehensive plan" means a
15 long-range plan adopted by the conservation district pursuant to
16 Minnesota Statutes, section 103C.331, subdivision 11, and
17 according to the most recent version of the Guidelines for Soil
18 and Water Conservation District Comprehensive and Annual Plans
19 published by the state board. That publication is not subject
20 to frequent change, is available in the State Law Library, and
21 is incorporated by reference.

22 Subp. 8a. [See repealer.]

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

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

30 Subp. 10a. **Conservation district technical representative.**
31 "Conservation district technical representative" means a
32 district employee assigned by the conservation district board or
33 other designee who has expertise in the design and application
34 of conservation practices.

35 Subp. 10b. **Conservation practices.** "Conservation
36 practices" means practices applied to the land for the purpose

1 of controlling or preventing soil erosion, sedimentation,
 2 nutrient runoff, or other water pollution to maintain the
 3 sustainable use of soil and water and other natural resources.

4 Subp. 11. [See repealer.]

5 Subp. 12. [See repealer.]

6 Subp. 13. [See repealer.]

7 ~~Subp. 13a. Consolidated Farm Service Agency.~~

8 ~~"Consolidation Farm Service Agency" means the Consolidated Farm~~
 9 ~~Service Agency, an agency of the United States Department of~~
 10 ~~Agriculture.~~

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

14 Subp. 14a. [See repealer.]

15 Subp. 14b. Farm Service Agency. "Farm Service Agency"
 16 means the Farm Service Agency, an agency of the United States
 17 Department of Agriculture.

18 Subp. 15. Field Office Technical Guide. "Field Office
 19 Technical Guide" means the document providing technical
 20 standards and specifications for conservation practices as
 21 provided by the Natural Resource Conservation Service and
 22 adopted by the conservation district board.

23 Subp. 16. Group spokesperson. "Group spokesperson" means
 24 a principal land occupier designated by the individuals involved
 25 in a group project who is authorized to speak for the entire
 26 group in negotiations with a conservation district for
 27 cost-share assistance.

28 Subp. 16a. High priority erosion problems. "High priority
 29 erosion problems" means areas where erosion from wind or water
 30 is occurring equal to, or in excess of, 2 x T tons per acre per
 31 year or is occurring on any area that exhibits active gully
 32 erosion or is identified as high priority in the comprehensive
 33 local water plan or the conservation district's comprehensive
 34 plan.

35 Subp. 16b. High priority water quality problems. "High
 36 priority water quality problems" means areas where sediment,

1 nutrients, chemicals, or other pollutants discharge to
2 Department of Natural Resources designated protected waters or
3 to any high priority waters as identified in a comprehensive
4 local water plan or the conservation district's comprehensive
5 plan, or discharge to a sinkhole or groundwater. The pollutant
6 delivery rate to the water source is in amounts that will impair
7 the quality or usefulness of the water resource.

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

12 Subp. 18a. **Landowner.** "Landowner" means a person,
13 corporation, or legal entity that holds title to a parcel of
14 land.

15 Subp. 18b. **Natural Resource Conservation Service.**
16 "Natural Resource Conservation Service" means the Natural
17 Resource Conservation Service, an agency of the United States
18 Department of Agriculture.

19 Subp. 19. [See repealer.]

20 Subp. 19a. **Other recognized technical practices.** "Other
21 recognized technical practices" means any conservation practice
22 or compilation of such practices not on the approved list of
23 conservation practices that have been approved by the state
24 board for cost-share assistance on a case-by-case basis.

25 Subp. 20. [See repealer.]

26 Subp. 20a. **Protected waters.** "Protected waters" means
27 those waters of the state identified as public waters or
28 wetlands under Minnesota Statutes, section 103G.005, subdivision
29 15, and inventoried under Minnesota Statutes, section 103G.201,
30 and identified on a protected waters inventory map available in
31 a county auditor's office.

32 Subp. 20b. **Registered professional engineer.** "Registered
33 professional engineer" means a person who is duly registered to
34 practice professional engineering according to Minnesota
35 Statutes, sections 326.02 to 326.15.

36 Subp. 20c. [See repealer.]

1 Subp. 20d. **Sinkhole.** "Sinkhole" means a depression or
2 hole in the earth's surface caused by dissolving of underlying
3 limestone carbonate bedrock and subsequent settling or collapse
4 of surficial soils.

5 Subp. 21. [See repealer.]

6 Subp. 22. [See repealer.]

7 Subp. 22a. **Special project.** "Special project" means a
8 conservation project or program including but not limited to
9 those projects or programs that accelerate implementation of
10 innovative soil and water conservation activities.

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

14 Subp. 25. **T.** "T" means the soil loss tolerance that is
15 the maximum average annual rate of soil loss from sheet and rill
16 erosion or wind erosion, expressed in tons per acre per year,
17 that is allowed yet still sustains the productive capacity of
18 the soil to produce food and fiber over the long term.

19 Subp. 26. **2 x T.** "2 x T" means soil erosion at the rate
20 of two times T.

21 Subp. 27. **Technical approval authority.** "Technical
22 approval authority" means the authorization granted in
23 accordance with the administrative guidelines for the state
24 cost-share program to a conservation district technical
25 representative to provide comprehensive technical assistance for
26 individual conservation practices, including associated
27 technical sign-off as the conservation district technical
28 representative of record.

29 8400.0200 AUTHORITY.

30 Minnesota Statutes, section 103C.501, authorizes the state
31 board, in cooperation with the conservation districts, to
32 administer a program of cost-sharing with land occupiers for the
33 installation of soil and water conservation practices. Parts
34 8400.0050 to 8400.1800 provide procedures and criteria to be
35 followed by the state board in allocating cost-sharing funds to

1 conservation districts, and standards and guidelines that the
2 conservation district boards shall use in allocating funds to
3 land occupiers.

4 8400.0300 APPROVED PRACTICES.

5 Subpart 1. **Approved practices.** The state board, in
6 consultation with the conservation districts, shall maintain a
7 list of practices that are eligible for cost-share funds, along
8 with guidelines pertaining to the components of the practices
9 that are eligible or ineligible for cost-share funds. The list
10 is contained in the Administrative Guidelines.

11 Subp. 2. **Criteria for approved practices.** Practices
12 approved by the state board must meet the criteria in items A to
13 D.

14 A. The primary purpose of all practices must be the
15 control of soil erosion, sedimentation, or chemical or nutrient
16 runoff or infiltration that impairs water quality.

17 B. All practices cost-shared under this program must
18 be designed and maintained for a minimum effective life of ten
19 years. The beginning date for a practice's effective life is
20 the same date the conservation district board approves the final
21 payment and the project is considered complete.

22 C. No cost-share funds shall be furnished for
23 practices designed only to increase land productivity.

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

26 Subp. 3. **Objectives of approved practices.** The
27 Administrative Guidelines contains a list of approved
28 practices. The objectives of these approved practices may
29 include, but are not limited to, activities that:

30 A. control nutrient runoff;

31 B. stabilize critical erosive areas;

32 C. divert runoff to protect and improve water
33 quality;

34 D. reduce wind erosion;

35 E. control gully, rill, or sheet erosion;

- 1 F. protect shoreland from erosion;
- 2 G. control stormwater runoff; or
- 3 H. protect or improve surface water and groundwater
- 4 quality.

5 Approved practices must meet the criteria listed in subpart 2.

6 8400.0600 STATE BOARD ALLOCATION OF FUNDS TO CONSERVATION
7 DISTRICTS.

8 Subpart 1. **Comprehensive plan.** Before the state board can
9 allocate cost-share funds to a conservation district it must
10 approve the conservation district's comprehensive plan,
11 including its most recent amendment and the annual work plan
12 that includes the application and justification for needed
13 cost-share funds. The plans must be in a format required by
14 Minnesota Statutes, section 103C.331, subdivision 11, and the
15 state board.

16 Subp. 3. **Review criteria.** The state board shall review
17 all conservation district applications for cost-share funds
18 based on the following criteria:

19 A. the extent of high priority erosion or water
20 quality problems in the conservation district as outlined in the
21 conservation district comprehensive and annual plans and
22 comprehensive local water plan;

23 B. priorities for the control of soil erosion or
24 water quality problems as established in the Administrative
25 Guidelines of the state board;

26 C. historical success of the conservation district in
27 applying soil and water conservation practices;

28 D. availability of cost-share funds from other
29 sources; and

30 E. the ability of the conservation district to expend
31 the funds in a timely manner.

32 Subp. 4. **Grants to conservation districts.** The state
33 board shall annually allocate cost-share funds to conservation
34 district boards that have fully complied with all state
35 cost-share program rules and comprehensive and annual planning

1 guidelines as prescribed by the state board. At least 70
2 percent of the cost-sharing funds available statewide will be
3 allocated to conservation districts in the form of grants for
4 conservation practices addressing high priority erosion,
5 sedimentation, or water quality problems. The remaining
6 cost-share funds may be allocated by the board to conservation
7 districts for conservation practices for lower priority erosion,
8 sedimentation, or water quality problems and for technical and
9 administrative assistance or to carry out special projects or
10 programs, except not more than 20 percent of the total funds may
11 be allocated for technical and administrative services.

12 Subp. 5. Other state and federal funds. Other funds
13 received by the state board may be allocated to conservation
14 districts for the treatment of erosion, sedimentation, or water
15 quality problems. These additional funds may be incorporated
16 with existing cost-share program funds and their use may be
17 governed by the Administrative Guidelines or may be subject to
18 other administrative guidelines required to fully implement the
19 intent for which these additional funds were appropriated.

20 8400.0700 PROGRAM REPORTING AND MONITORING.

21 For the purpose of reporting and monitoring the progress of
22 the program and use of funds, each conservation district shall
23 submit an annual report of the year's accomplishments according
24 to the guidelines and requirements established by the state
25 board. The state board shall require additional special
26 reports, including, but not limited to, summaries of practice
27 site inspections and special projects.

28 8400.0900 CONSERVATION DISTRICT ADMINISTRATION OF PROGRAM FUNDS.

29 Subpart 1. General. Following receipt of grant funds from
30 the state board, a conservation district is responsible for
31 administration of the funds in accordance with Minnesota
32 Statutes, chapter 103C, the Administrative Guidelines, and all
33 other applicable laws. The conservation district board shall
34 make all decisions concerning use of these funds in accordance
35 with parts 8400.0050 to 8400.1800 and the Administrative

1 Guidelines. All funds allocated to conservation districts must
2 be used for the purposes designated by the state board.

3 Subp. 2. Maximum cost-share percentage. Prior to
4 considering any applications from land occupiers for cost-share
5 assistance, the conservation district board shall establish
6 cost-share rates for practices to be installed under the
7 program, up to the maximum rates established by the state
8 board. The maximum percent of the total eligible cost of the
9 practices installed using state cost-share funds must not exceed
10 75 percent. Other state or federal funds from any source, when
11 used in combination with cost-share funds of this program, must
12 not exceed the maximum payment rate of 75 percent of the total
13 eligible costs. The conservation district board shall establish
14 cost-share rates based on the following factors:

15 A. the extent of high priority erosion or water
16 quality problems in the conservation district as outlined in the
17 conservation district's comprehensive and annual plans;

18 B. advice of technical experts familiar with the
19 conservation district;

20 C. cost-share rates currently in effect under the
21 agricultural conservation program administered by the United
22 States Consolidated Farm Service Agency and other assistance
23 programs;

24 D. conservation district priorities as established in
25 the conservation district's comprehensive and annual plans and
26 comprehensive local water plan;

27 E. cost-share funds available; and

28 F. the state board's Administrative Guidelines.

29 The maximum cost-share rates must be identified in the
30 conservation district's annual plan and other documents
31 containing the policies of the conservation district.

32 Subp. 3. Reencumbering funds. Prior to the end of the
33 grant period for which the state board has granted the
34 cost-share funds, a conservation district board may reencumber
35 all funds resulting from canceled projects or from those
36 projects that did not use the full amount encumbered. For

1 unencumbered funds remaining after the grant period, the
2 conservation district board shall follow the procedures
3 described in part 8400.1460.

4 8400.1000 APPLICATION FOR FUNDS BY LAND OCCUPIERS.

5 Land occupiers seeking assistance under this program shall
6 apply to the conservation districts on forms provided by the
7 state board and available from the conservation district
8 office. Each application must be filled out in its entirety and
9 must be signed by the land occupier. If the land occupier is
10 not the landowner, the application must also bear the
11 landowner's signature.

12 8400.1100 GROUP PROJECT.

13 Where the cooperation of several land occupiers is required
14 to solve an erosion or water quality problem, the conservation
15 district may share the cost of such a group project if all of
16 the land occupiers are eligible as individuals and the practices
17 satisfy the criteria of the program. The land occupiers must
18 reach agreement on division of payments and designate a group
19 spokesperson. The spokesperson must sign the application on
20 behalf of the group and negotiate all project details with the
21 conservation district. Payment for the conservation district's
22 share of the practice shall be issued to the group spokesperson
23 who will be responsible for executing the division of payment
24 plan prepared by the group.

25 8400.1200 COOPERATIVE AND JOINT PROJECTS OF CONSERVATION
26 DISTRICTS.

27 Subpart 1. Land in more than one conservation district.
28 If a project involves land in more than one conservation
29 district, application for the entire project must be made to the
30 conservation district containing the majority of the project
31 lands.

32 Subp. 2. Pooling cost-share allocation for joint
33 projects. Conservation district boards may enter into an
34 agreement to pool all or portions of their collective cost-share

1 allocations to implement joint projects. Cooperative and joint
2 projects may be undertaken to accomplish watershed-based
3 resource management goals or other goals of mutual benefit as
4 identified in the county's comprehensive local water plan or the
5 district's comprehensive plan.

6 8400.1250 TECHNICAL ASSESSMENT AND COST ESTIMATE DETERMINATION.

7 A determination of the effectiveness of a practice to
8 address the erosion or water quality problem and a cost estimate
9 must be made by the conservation district technical
10 representative prior to the conservation district board's review
11 of the application for cost-share funds. The assessment and
12 cost estimate must be conducted by an individual with the
13 appropriate level of technical approval authority or by a
14 registered engineer with expertise in the design of the
15 conservation practices.

16 8400.1300 CRITERIA FOR CONSERVATION DISTRICT BOARD REVIEW.

17 Criteria for conservation district board review:

18 A. The practice needed to solve the problem must be
19 on the list of approved practices presented in the
20 Administrative Guidelines or must have received approval from
21 the state board.

22 B. The primary purpose of the requested practice must
23 be to treat a high priority erosion problem or high priority
24 water quality problem.

25 C. The requested practice must be consistent with
26 conservation district plans and priorities.

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

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

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

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

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

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

12 8400.1400 CONSERVATION DISTRICT APPROVAL.

13 Subpart 1. General. After completion of the conservation
14 district board review, the conservation district board shall
15 either approve or deny the application. If it is approved, the
16 conservation district board shall instruct the chair or acting
17 chair to sign the application. Once it is signed, the
18 application becomes the contract between the conservation
19 district and land occupier and serves as the authorization to
20 construct the practice according to the approved conservation
21 practice plan. Practices where construction has begun prior to
22 conservation district approval are ineligible for financial
23 assistance. Changes in any provisions of the contract are
24 subject to review and approval by the conservation district
25 board pursuant to part 8400.1600, subpart 1.

26 If the application is denied, the conservation district
27 board shall notify the land occupier in writing within 30 days
28 after conservation district board action of the reason for
29 denial.

30 Subp. 2. Conservation practice plans. The project plans
31 for conservation practices must be prepared according to
32 standards in the Field Office Technical Guide or other standards
33 approved by the state board and must be approved by a
34 conservation district technical representative with the
35 appropriate level of technical approval authority. Plans

1 prepared by a registered professional engineer must meet Field
2 Office Technical Guide standards, meet other standards approved
3 by the state board, or be certified as appropriate standards by
4 the registered professional engineer. Upon completion and
5 technical approval of the plan, one copy must be given to the
6 land occupier and one copy retained with the project file
7 located in the conservation district office.

8 8400.1405 PROJECT DEADLINES AND PARTIAL PAYMENT.

9 Subpart 1. Time limit and cancellation. Projects not
10 started within 18 months after conservation district board
11 approval must be canceled unless an amendment to the project
12 contract has been approved by the conservation district board.
13 Projects not completed by the end of the state's third fiscal
14 year after initial conservation district board approval must be
15 canceled unless prior written approval of the state board has
16 been received.

17 Subp. 2. Partial payment. In cases where weather or other
18 unanticipated circumstances beyond the control of the land
19 occupier, force postponement of certification of completion
20 until the following construction season, the conservation
21 district board may issue a partial payment for the work that has
22 been completed. The conservation district board shall not
23 consider issuing a partial payment unless:

24 A. the anticipated completion date complies with
25 subpart 1;

26 B. the completed work meets the requirements of part
27 8400.1400, subpart 2; and

28 C. the conservation district technical representative
29 has reviewed the work and has defined the total percent of
30 construction that is complete.

31 Subp. 3. Partial payment conditions. If the conservation
32 district issues a partial payment under subpart 2, the following
33 conditions apply:

34 A. payment percentages must comply with part
35 8400.0900, subpart 2;

1 B. the balance of the project must be paid by the
2 conservation district board upon the satisfactory completion of
3 the total project;

4 C. all expenses incurred to correct damage caused by
5 the land occupier's failure to expeditiously complete the
6 conservation practice must be borne by the land occupier;

7 D. land occupiers receiving partial payments must
8 complete the project within a time deemed reasonable by the
9 conservation district board; and

10 E. land occupiers not completing partially paid
11 projects shall be considered as violating part 8400.1700 and
12 shall be directed, unless otherwise authorized by the state
13 board as provided elsewhere in part 8400.1700, to return the
14 amount of financial assistance received.

15 Every request for partial payment will be considered by the
16 conservation district board on its own merits.

17 Subp. 4. Denial. If the conservation district board
18 denies a request for partial payment under subpart 2, the board
19 shall notify the land occupier within 30 days of the reasons for
20 denial of the request.

21 8400.1460 RETURN OF ALLOCATED FUNDS.

22 Cost-share funds unencumbered by the conservation district
23 board after the grant period must be returned to the state board
24 within 30 calendar days following the end of that grant period.

25 8400.1500 CONSERVATION DISTRICT RECORDS.

26 The conservation district shall maintain a current ledger
27 of all cost-share contracts on forms provided by the state
28 board. The ledger must specify the land occupiers with whom the
29 conservation district has contracted, the practices involved,
30 the status of construction, and a total of funds encumbered.
31 The conservation district shall also document efforts to
32 identify and contact land occupiers with high priority erosion
33 problems.

34 8400.1600 EXECUTING THE COST-SHARE CONTRACT.

1 Subpart 1. **Amending cost-share contracts.** Because of
2 extreme circumstances such as, but not limited to, weather and
3 unforeseen geologic conditions, it may be desirable to amend the
4 original cost-share contract. If changes to the original
5 cost-share contract are needed, an amendment must be approved by
6 the conservation district board. The conservation district
7 board shall not approve amendments that increase the originally
8 approved cost-share percentage, nor shall the conservation
9 district board approve any amendments after the approval to
10 issue final payment on the original contract has been made.

11 Subp. 2. **Construction of practice.** Construction of the
12 practices must be monitored by the conservation district board
13 to ensure compliance with part 8400.1400, subpart 2. Upon
14 completion, the conservation district technical representative
15 with appropriate technical approval authority or the registered
16 engineer shall certify whether the practice has been
17 satisfactorily constructed according to the approved
18 conservation practice plans and meets the design criteria of the
19 practice as specified in the Field Office Technical Guide or
20 other standards certifiable by a registered professional
21 engineer or other standards approved by the state board. No
22 certification shall be made until all specifications have been
23 satisfied. Exceptions for partial completion must be according
24 to part 8400.1405, subpart 3. Upon certification of completion,
25 the land occupier shall contact the conservation district for
26 payment and shall present documentation of all costs incurred in
27 the installation of the practice in the form of receipts or
28 invoices.

29 Subp. 3. **In kind services and materials.** In kind services
30 and materials provided by the land occupier such as, but not
31 limited to, earth work, seedbed preparation, seeding, and
32 permanent fencing materials may be credited toward the land
33 occupier's share of the total cost of the practice. The
34 conservation district board shall determine whether charges for
35 in kind services and materials are practical and reasonable.

36 Subp. 4. **Actual cost different than estimated cost.** In

1 cases where the actual cost of the practice exceeds the
2 estimated cost, the conservation district may only share the
3 approved percentage of the estimated cost, except when an
4 amendment to increase the cost estimate listed on the cost-share
5 contract has been approved by the conservation district board.
6 Where the actual cost is less than the estimated cost, the
7 conservation district shall only share the approved percentage
8 of the actual cost of the practice.

9 Subp. 5. Issuing cost-share payments. The conservation
10 district board shall review the receipts or invoices provided by
11 the land occupier to determine the actual cost of the practice.
12 When the conservation district determines that all claims are
13 practical and reasonable, it shall authorize issuance of a check
14 for the conservation district's share of the practice. If the
15 conservation district board determines that certain claims are
16 not justified, it shall notify the land occupier in writing of
17 the unjustified claims within 30 days. The conservation
18 district board shall then authorize the issuance of a check for
19 the conservation district's share of the justified claims.

20 8400.1650 RECORDING PRACTICES.

21 The size, location, and effective life of the soil and
22 water conservation practices that have received cost-share
23 payments under this program equal to or in excess of \$50,000
24 shall be recorded by the conservation district on the property
25 title. The conservation district board may require the
26 recording of practices where cost-share payments are less than
27 \$50,000 where such action is considered appropriate by the
28 conservation district board. Recording procedures, including
29 the prescribed forms, are described in the administrative
30 guidelines for the state cost-share program.

31 8400.1700 MAINTENANCE.

32 Subpart 1. Land occupier maintenance responsibilities.
33 The land occupier is responsible for operation and maintenance
34 of practices applied under this program to ensure that their
35 conservation objective is met and the effective life, a minimum

1 of ten years, is achieved. Should the land occupier fail to
2 maintain the practices during their effective life, the land
3 occupier is liable to the state of Minnesota for the full amount
4 of financial assistance received to install and establish the
5 practice. The land occupier is not liable for cost-share
6 assistance received if the failure was caused by reasons beyond
7 the land occupier's control, or if soil and water conservation
8 practices are applied at the land occupier's expense which
9 provide equivalent protection of the soil and water resources.

10 Subp. 2. Reapplication or removal of practices. In no
11 case shall a conservation district provide cost-share assistance
12 to a land occupier for the reapplication of practices which were
13 removed by the land occupier during their effective life or that
14 failed due to improper maintenance. The conservation district
15 board may authorize the removal of a practice installed under
16 this program provided the land occupier can show good cause for
17 removal of the practice and the purpose of the original practice
18 has been achieved.

19 8400.1750 PRACTICE SITE INSPECTIONS.

20 As a condition to receive grant funds from the state board,
21 the conservation district shall ensure compliance with the
22 maintenance provisions of part 8400.1700 and Minnesota Statutes,
23 chapter 103C, by monitoring all cost-share contracts made with
24 land occupiers. The conservation districts shall conduct site
25 inspections of practices installed with cost-share funds to
26 determine if the land occupier is in compliance with the
27 operation and maintenance requirements under part 8400.1700.
28 Site inspection procedures, including the prescribed forms and
29 frequency, are described in the Administrative Guidelines for
30 the State Cost-Share Program.

31 8400.1800 APPEALS.

32 Land occupiers may appeal a conservation district's action
33 within 60 days of receiving notice of the action by submitting a
34 written request to the conservation district board asking the
35 board to reconsider its decision. Should the land occupier and

1 the conservation district board reach an impasse, the land
2 occupier may appeal the conservation district board's decision
3 to the state board within 60 days of receiving notice of the
4 district board's final decision. If an informal hearing is
5 granted, the state board or its appointed mediator shall hear
6 all testimony offered, and shall accept written testimony for
7 ten days after the hearing. The mediator, if one is used, shall
8 report the findings and recommendation to the state board. The
9 state board shall make its decision on the appeal within 60 days
10 of the hearing date or 60 days after receiving the mediator's
11 report, upholding, reversing, or amending the decision of the
12 conservation district board.

13 REPEALER. Minnesota Rules, parts 8400.0100, subparts 1a, 2, 5,
14 6, 7a, 8a, 11, 12, 13, 14a, 19, 20, 20c, 21, and 22; 8400.0400;
15 8400.1950; 8400.2000; 8400.2100; 8400.2200; 8400.2300;
16 8400.2400; 8400.2500; 8400.2600; 8400.2700; 8400.2705; and
17 8400.2800, are repealed.