

Board of Water and Soil Resources

CONSERVATION EASEMENT PROGRAM



HANDBOOK I: Program Administration

Part I:
Program Administration

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BWSR CONSERVATION EASEMENTS

LANDOWNER INFORMATION SHEET

Local Contact:

When entering into a conservation easement many questions come to mind - ranging from "what are the terms and requirements of the easement" to "how will this easement and its financial gains affect my operation?" This information sheet is not intended to answer all of your questions, but it will address some of the most commonly asked questions and draw attention to issues you will need to examine before deciding to convey an easement to the state. Soil and water conservation district (SWCD) staff will be able to provide you with some additional information related to the following issues; however, you are encouraged to contact the appropriate local, state or federal agency for further clarification.

BASE ACREAGE PROTECTION AND FEDERAL FARM PROGRAM CONTRACTS

The Agricultural Stabilization and Conservation Service (ASCS) procedures require that land with a restrictive easement be reconstituted into a separate unit. All crop acreage bases (CABs) will remain with the non-easement land in nearly all cases. If the non-easement land has insufficient cropland for all CABs, the excess will be reconstituted with the easement land and then reduced to zero. Records will be maintained for possible future restoration. For further clarification contact your local ASCS office.

The ASCS may release land currently enrolled in a limited-duration federal conservation program if a perpetual conservation easement will be acquired on those acres.

LAND TITLE OBLIGATIONS

State law requires that a good title exist for the property being enrolled in a conservation easement, and that the property be free of liens and encumbrances. The state purchases title insurance on the easement area to identify what encumbrances are associated with the property's title. Be prepared to incur the expenses associated with updating your abstract and clearing undesirable liens or encumbrances from your property's title (e.g. paying real estate taxes or fees to lenders to provide a consent to the easement).

IRS REPORTING REQUIREMENTS FOR EASEMENT PAYMENTS

The IRS requires that the state report the entire amount of the easement payment to them on an IRS 1099S Form (reported in the year the payment was issued). You can choose to receive the easement payment as a one-time lump sum payment or as 10 annual installments. If you choose to receive annual installment payments, the IRS still requires the state to report the entire amount of the easement payment in the year the first installment payment is made. You are encouraged to discuss the IRS 1099S reporting requirements with your tax preparer or an attorney.

Where multiple grantors (landowners) are identified on the easement, forms will be provided to indicate the distribution of the easement payment among the grantors. Failure to return the distribution forms to the BWSR will result in reporting the entire easement payment for *each* grantor to the IRS.

PROPERTY TAX ON EASEMENT ACRES

The diminished allowed uses of enrolled acres and the permanent nature of the easement often reduce the assessed value of the land. However, the decision to adjust land values is left to the discretion of the county. To find how the land values will be affected please contact the county assessor's office in the county in which the easement area is located.

SALES TAX ON GOODS PURCHASED TO ESTABLISH CONSERVATION PRACTICES

As per the *Agricultural Production Exemption*, any purchase of seed, trees, fertilizers and herbicides for use by farmers in the RIM Reserve and PWP program is exempt from sales tax. A **Certificate of Exemption** form ST-3 must be completed and given to the seller. The statutory authority for this exemption is *Laws of Minnesota 1991, Ch. 291, Art. 8, Section 17, subd. 9*.

EASEMENT ACRE TRANSACTIONS

The terms of the conservation easement require that you notify the Board of Water and Soil Resources when the property containing a conservation easement is transferred to a different owner. Notification in writing of the names, addresses and social security numbers of any new owners of all or part of the easement area is required within 30 days after the conveyance.

LANDOWNER PERMANENT COVER OBLIGATION

All acres of the conservation easement must be protected by a permanent cover of vegetation or water; if one does not exist, it must be established, generally with the help of state cost-share dollars. Once these conservation practices are established, it is the landowner's obligation to see that they are maintained for the duration of the easement. This obligation transfers to each new owner, including all successors, heirs and assigns.

VEHICLE USE ON RECREATIONAL EASEMENT ACRES

Limited recreational vehicle use on easement acres is allowed. Any proposal for unlimited use, such as a traveled trail, must be addressed in the conservation plan and approved by the BWSR. Vegetative alteration or erosion problems caused by such activities as snowmobiling or other off road vehicle use will result in a violation of the easement. The same restrictions apply to non-motorized activities that may damage or destroy vegetation.

PUBLIC USE OF EASEMENT ACRES

Easement acres need not be open to public use; if they are, there is state legislation that protects the landowner. Chapter 87 "Private Lands and Waters, Public Use" expressly provides that a landowner who permits without charge the use of his/her land for recreational purposes owes no duty of care to make sure the land is safe for such recreational uses, and does not assume responsibility for or incur liability for any injury to persons using the land which is caused by their own acts. For more information please contact your legal counsel.

Those landowners not wishing to allow public use of their easement acres are advised to "post" their land. Because easement acres are no longer characterized "agricultural land" as defined in the state trespass law, the general prohibition against hunting or motor vehicle use may not apply.

LAND CONVERSION RESTRICTIONS

After entering into the conservation easement *agreement* the landowner may not convert owned or leased land that currently supports natural vegetation to agricultural production or pasture. Conversion of such lands may result in the state terminating the conservation easement without liability.

LAND USES ALLOWED DURING THE EASEMENT PROCESSING PERIOD

Cropping and grazing of the proposed easement area is allowed while the easement is being processed, and after the easement is recorded for the period necessary to harvest the crop or complete the grazing rotation. You must certify that all cropping or grazing has terminated in order to receive the easement payment. Payments will not be issued until this certification of termination is received by the BWSR.

Conservation easements

The Minnesota Board of Water and Soil Resources and your local soil and water conservation district...working together to protect Minnesota's resources



The mission of the Board of Water and Soil Resources (BWSR) is to provide leadership enabling local governments to properly manage water and soil resources and to help all citizens be stewards of our irreplaceable natural resources.

The mission of your soil and water conservation district (SWCD) is to take available technical, financial and educational resources, whatever their source, and focus on coordinating them so that they meet the needs of the local landuser.

For more information on conservation easements, PWP or RIM Reserve, contact your local SWCD; or call the BWSR at 612-296-3767. Hearing/speech impaired can call 612-297-5353 or 1-800-627-3529 and ask to be connected to 612-296-3767.

BWSR is an equal opportunity employer.

What is a conservation easement?

It involves the acquisition of specific land rights for conservation purposes. Landowners who offer the state a conservation easement receive a payment to stop cropping and/or grazing the land, and in turn the landowners initiate conservation practices such as establishing vegetative cover or restoring drained wetlands. The easement is recorded on the land title at the county courthouse and transfers with the land when the parcel is sold.

Two state programs that involve enrolling land in conservation easements are the Permanent Wetland Preserves Program (PWP) and the Reinvest in Minnesota (RIM) Reserve Program. The Minnesota Board of Water and Soil Resources (BWSR) administers these programs on a state level; locally, they are administered by soil and water conservation districts (SWCDs).

Who is eligible to enroll?

Any individual who has owned the land for at least one year and can provide evidence of a good and marketable land title can apply to enroll eligible land. Landowners must update their property abstract at their own expense. All liens and mortgages must be paid off, or released or consented to by the mortgage or lien holder, before the easement can be completed. Partnerships and corporations must be agricultural in nature and registered with the Minnesota Department of Agriculture to be eligible for the RIM Reserve Program.

What is the payment for a conservation easement?

Payments vary by township and land use history (cropped or non-cropped). They are based on the assessor's township average market value for tillable land. Contact your local SWCD for specific rates.

How long is the easement in effect?

Most easements purchased by the state are perpetual (forever). Some eligible lands may be enrolled under limited duration easements (not less than 20 years) in counties where certain local ordinances are in effect that will protect water and soil resources after the easement has expired.

How will the easement area be managed?

Depending on the site, a combination of conservation practices, such as establishing grass or trees, or restoring drained wetlands, will be required on the easement area. The state will provide financial assistance toward the establishment of the practices outlined in a conservation plan developed by the SWCD in cooperation with the landowner. The landowner is responsible for maintaining the practices and controlling noxious weeds. Any abandoned (unused) wells on the easement area must be properly sealed at the landowner's ex-

Easements continued...



pense and any contaminants, pollutants, or hazardous substances must also be cleaned up at the landowner's expense before enrolling the land.

Who pays the property taxes on the easement area?

The landowner is responsible for paying all taxes and any other levies and assessments that may be assessed on the enrolled land. Assessed values vary from county to county. Contact your local assessor for more information.

Who controls access to the easement acres?

Access is solely controlled by the landowner. No public access is allowed unless granted by the landowner.

Where can I get more information?

Contact the SWCD in the county where the land is located. The SWCD will assist in determining if the land is eligible and, if so, will assist with completing an application for enrollment. SWCDs may accept applications at certain times throughout the year; please contact your SWCD for specific information. Applications will be considered for funding by the state in the spring and the fall, and those meeting local and state resource protection goals will be prioritized based on resource benefits, local and state priorities and available funding.

RIM Reserve

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For more information on RIM Reserve, contact your local SWCD; or call the BWSR at 612-296-3767. Hearing or speech impaired can call 612-297-5353 or 1-800-627-3529 and ask to be connected to 612-296-3767.

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The Reinvest in Minnesota (RIM) Reserve Program strives to protect and improve water quality by encouraging landowners to retire environmentally sensitive land from agricultural production. The program reimburses landowners for enrolling their land in a permanent conservation easement, and then provides assistance to restore the area to grass, trees or wetlands. Other benefits of the program include reduced soil erosion and sedimentation, enhanced fish and wildlife habitat, flood control and groundwater recharge.

The program is managed on the state level by the Minnesota Board of Water and Soil Resources (BWSR). Locally, soil and water conservation districts (SWCDs) implement the program.

Eligible lands:

Sensitive groundwater: lands where there is a significant risk of groundwater degradation from activities conducted at or near the land surface (e.g. sinkholes and areas adjacent to public supply wells).

Riparian lands: lands adjacent to public waters, drainage systems, wetlands or locally designated priority waters identified in a comprehensive local water management plan.

Wetland restoration areas: lands containing legally drained wetlands that are feasible to restore to their pre-drainage condition.

Marginal agricultural cropland: lands that are classified as highly erodible and have been cropped two of the five years prior to the date of application.

Other environmentally sensitive lands: lands such as pastured hillsides, agricultural woodlots and living snowfences, which provide protection of water and soil resources and furnish important fish and wildlife habitat.

Program accomplishments:

Nearly 2,000 private landowners enrolled 45,000 acres of land (including 10,000 acres of wetland restoration easements) into the RIM Reserve Program between 1986 and 1993. Strong partnerships with other agencies and organizations have contributed to the program's success. The following organizations have contributed to RIM Reserve with technical, administrative and financial assistance:

- Pheasants Forever
- Minnesota Waterfowl Association
- Izaak Walton League
- U. S. Fish & Wildlife Service
- North American Wetland Conservation Council
- Ducks Unlimited

Permanent Wetland Preserves

The Minnesota Board of Water and Soil Resources and your local soil and water conservation district...working together to protect Minnesota's resources



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For more information on the Permanent Wetland Preserves Program, contact your local SWCD; or call the BWSR at 612-296-3767. Hearing/speech impaired can call 612-297-5353 or 1-800-627-3529 and ask to be connected to 612-296-3767.

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As wetlands continue to disappear from our landscape, more and more people are becoming aware of the unique benefits they provide and specific ecosystem functions they fulfill. Although this new awareness has led many landowners to think twice before draining or filling a wetland, financial considerations often make it difficult to allow these wetland areas to go undeveloped. The Permanent Wetland Preserves Program (PWP) helps balance these competing interests by offering compensation to landowners willing to enroll their wetlands in a permanent conservation easement that will protect the wetland and prohibit cropping and grazing of the easement area.

Program benefits:

- Store surface runoff and reduce flooding damages
- Provide food, shelter and habitat for fish and wildlife
- Replenish subsurface water
- Provide outdoor recreation areas
- Enhance the natural beauty and biodiversity of landscapes

Eligible wetlands:

Type 1 wetlands consist of seasonally flooded basins or upland flats. The soil is occasionally waterlogged or covered with water at various times, but is usually adequately drained during much of the growing season. Vegetation varies from bottomland hardwoods to herbaceous plants.

Type 2 wetlands are inland fresh meadows. The soil is usually without standing water but is waterlogged within a few inches of the surface. Vegetation includes grasses, sedges, rushes and various broad-leafed plants.

Type 3 wetlands are shallow marshes. The soil is often covered with water during the year. Plants such as cattails, arrowheads, pickerelweed, smartweeds, spikerushes and bulrushes are prevalent.

Only existing wetlands and adjacent uplands that provide a buffer for the wetland are eligible. Wetlands that have been partially drained, but are not feasible to restore, are also eligible.

The entire wetland area owned must be offered for enrollment. If the applicant owns only part of a wetland, it will be eligible only if there will be little or no adverse impact to the wetland area by activities that may take place in the non-enrolled portions of the basin.

Program accomplishments:

In 1991, the Legislature created the Permanent Wetland Preserves Program as part of the Wetland Conservation Act. During sign-up periods in the fall of 1992 and the spring of 1993, over 5,000 acres of wetlands and adjacent upland areas were enrolled in the program.

News Release

For immediate release:
(date of release)

For further information:
(name and phone of contact)

SIGN-UP PERIOD FOR CONSERVATION EASEMENTS SCHEDULED

Landowners interested in receiving payment to retire marginal agricultural land, protect riparian lands, restore drained wetlands or protect existing wetlands should check with the (county name) Soil and Water Conservation District (SWCD) about enrolling land in the Reinvest in Minnesota (RIM) Reserve Program or the Permanent Wetland Preserves Program. The sign-up period for the programs is (sign-up dates).

"Enrolling land in a conservation easement is an excellent way for landowners to help protect Minnesota's natural resources while still receiving some financial compensation," said (district manager), (county name) SWCD manager. "I strongly encourage any interested landowner to stop by the office or give us a call," (manager's last name) said.

The RIM Reserve Program is a land set-aside program designed to protect and improve water quality, reduce soil erosion, and enhance fish and wildlife habitat. Under the program, landowners enroll marginal lands under a conservation easement, retire the lands from production, and return them to their natural habitat.

(more)

A variety of lands are eligible for the program, including previously drained wetlands for restoration; cropland adjacent to sinkholes; and cropland and pastured hillsides adjacent to most surface waters.

The Permanent Wetland Preserves Program enrolls existing (not drained) type one, two, three and six wetlands--the types of wetlands that are most easily drained or filled. Once enrolled, the wetlands may not be altered.

Both programs pay landowners a percentage of the average market value of land in the township for the land covered by the easement. The easements are permanently recorded on the title of the enrolled land and are transferred when the property is sold; however, the land remains the property of the landowner, who retains the right to control the public's access to the land.

For more information on either program, contact the (your county name) SWCD at (phone number).

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REINVEST IN MINNESOTA (RIM) RESERVE ELIGIBILITY INFORMATION

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A. RIM RESERVE OVERVIEW AND ELIGIBLE LANDS

A.1 PURPOSE AND POLICY STATEMENT

The Reinvest in Minnesota (RIM) Resources Law of 1986, Minnesota Statutes, sections 103F.501 to 103F.531, as amended, states:

" It is the purpose of [the program] to keep certain marginal agricultural land out of crop production to protect soil and water quality and support fish and wildlife habitat. It is state policy to encourage the retirement of marginal, highly erodible land, particularly land adjacent to public waters, drainage systems, wetlands, and locally designated priority waters, from crop production and to reestablish a cover of perennial vegetation. "

A.2 PROGRAM GOALS

- Reduce groundwater contamination potential
- Improve surface water quality
- Eliminate or reduce off-site deposition of nutrients, sediment or pesticides
- Enhance retention of surface runoff
- Control Floods
- Reduce erosion
- Protect and improve fish and wildlife habitat
- Enhance biological diversity
- Improve private forest management

A.3 DEFINITIONS OF ELIGIBLE LANDS

As stated in the above purpose and policy statement, the objective of the RIM Reserve program is to retire agricultural lands. Agricultural land is defined in the program administrative rules as:

"Agricultural land" means land devoted for use as pasture or hayland or to the production of horticultural, row, close grown, introduced pasture, or introduced hayland crops, or to growing nursery stocks, or for pasturing domestic livestock or dairy animals, or for use as animal feedlots, and may include contiguous land associated with the production of the above".

Therefore, to be eligible for RIM Reserve a land parcel must be located within, or be contiguous to lands meeting the agricultural definition.

Specific eligible land types are:

Sensitive groundwater area:

"Sensitive groundwater area" means land with crop history that includes a geographic area defined by natural features where there is a significant risk of groundwater degradation from activities conducted at or near the land surface.

Riparian lands:

"Riparian lands" means agricultural lands adjacent to public waters, drainage systems, wetlands, or locally designated priority waters identified in a comprehensive local water management plan.

Wetland restoration area:

"Wetland restoration area" means lands containing drained wetlands that are practical to restore to their pre-drainage condition and where the state is able to secure the necessary land rights of adjacent landowners. "*Drained wetland*" means a former natural wetland that has been altered by draining, dredging, filling, leveling or other manipulation sufficient to render the land suitable for agricultural crop production. This alteration must have occurred before December 23, 1985, and must have been legal. (Creating a wetland, or restoring a wetland to an elevation or area beyond its pre-drainage condition, is not considered wetland restoration.)

Marginal agricultural cropland area:

"Marginal agricultural cropland area" means land with crop history that is composed of class IIIe, IVe, V, VI, VII, or VIII land as identified in the land capability classification system of the United States Department of Agriculture, or similar land as described under a land classification system selected by the BWSR.

Pastured hillside:

"Pastured hillside" means land on a hillside that is used for pasture and is devoted to the production of forage.

Living snowfence area:

"Living snowfence" means agricultural land within 300 feet of the right-of-way of a highway; the land must have a strip or belt of trees, shrubs or grass barriers at least six rows deep.

Woodlots on agricultural land:

"Woodlot" means a distinct tract of naturally forested land that is surrounded by agricultural land.

Abandoned building site on agricultural land:

"Abandoned building site" means a distinct tract of land which was formerly inhabited as a homesite or farmstead and that is surrounded by agricultural land.

Replacement wetland:

"Replacement wetland" means a wetland restored or created in accordance with the Wetland Conservation Act Rules, Chapter 8420 to replace public values lost from another wetland that has been drained or filled.

B. RIM RESERVE PROGRAM ELIGIBILITY CRITERIA

B.1 GENERAL CRITERIA

- 1) The land is owned by individuals, family farms, family farm partnerships, authorized farm partnerships, family farm corporations, authorized farm corporations or estates and testamentary trusts. Definitions can be found in handbook's **Reference** section. In addition to meeting the definition, authorized farm corporations or authorized farm partnerships must provide proof that they are registered with the Minnesota Department of Agriculture. Nonprofit organizations are not eligible to convey a RIM Reserve easement to the state.
- 2) The land must have been owned by the applicant, parent of the applicant or a blood relative of the applicant for at least one year before the date of application.
- 3) Easement areas must be at least five acres in size or must be a whole field as defined by the Agricultural Stabilization and Conservation Service (ASCS). ***Exceptions: living snowfence, agricultural woodlot or abandoned building site. This minimum acreage requirement may be waived for a partial enrollment of a drained restorable wetland or a replacement wetland where two or more parties are collectively enrolling parcels in which a drained wetland will be restored.***
- 4) The land must not be enrolled under another federal or state government program, or under another easement whose purpose conflicts with, or substantially duplicates, the terms of a RIM Reserve conservation easement. Release from contracts (e.g., Conservation Reserve Program [CRP] and Federal Waterbank) must be obtained before the easement can be conveyed (recorded). Conservation easements must be evaluated on a case-by-case basis to determine whether or not they substantially duplicate the RIM Reserve easement. For example, land enrolled in USDA's Wetland Reserve Program (WRP) would not be eligible because that program has purchased the same land rights that a RIM Reserve easement purchases - specifically preventing cropping and grazing and requiring the establishment and maintenance of conservation practices.
- 5) Unused (abandoned) wells on the proposed easement area must be properly sealed before the easement can be conveyed. All associated costs to properly seal the wells are the responsibility of the landowner. Properly sealed means in accordance with Minnesota Statutes 103I.301 and the Minnesota Dept. of Health's well code, Minnesota Rules Chapter 4725.
- 6) Hazardous substances, buried tanks, pollutants, or contaminants on the proposed easement area must be properly removed or cleaned up before the easement can be conveyed (recorded). All associated costs to do so are the responsibility of the landowner.
- 7) No structures, temporary or permanent, can be located on the easement area. Existing structures must be removed prior to conveying the easement, and all costs associated with the removal are the responsibility of the landowner.

- 8) Perpetual easements are, by law, required to be considered ***highest priority***. Wetland restoration areas and living snowfences must be perpetual. Limited duration easements of no less than 20 years may be considered for enrollment in SWCDs where local official controls (e.g., soil loss ordinances) are in effect, enforced and where the SWCD has received formal approval by the BWSR.
- 9) Public Waters and Public Waters Wetlands identified on the DNR Public Waters inventory are eligible for enrollment but shall not receive compensation. **This does not apply when they are offered for enrollment as a wetland restoration or as a replacement wetland.**
- 10) Public surface drainage ditches, including one rod of the ditch bank, must be excluded from the conservation easement and therefore shall not receive compensation. **This does not apply when the drainage ditch is offered for enrollment as part of a wetland restoration or replacement wetland project.**

B.2 SPECIFIC CRITERIA

Specific considerations or restrictions may pertain to individual eligible land types. The following 11 items specify requirements that must be met for the land to comply with the crop history definition, or for the land to be eligible as riparian land, a wetland restoration area, a marginal agricultural cropland area, living snowfence, pastured hillside, agricultural woodlot, abandoned building site or replacement wetland.

- 1) Regarding all lands that will be compensated at the "land with crop history" easement payment rate, or for easements requiring crop history to be eligible:
 - "crop history" means the acres have been in agricultural crop production for at least two of the last five years (complete, annual cropping seasons) prior to the date of application. Introduced hayland and introduced pasture qualifies as crop history if the area has been cultivated in a rotation of row crops or small grains, or interseeded with introduced or native species, at least twice during the 10 years prior to the date of application, and has been harvested or grazed at least two of the five years prior to the date of application. Acres enrolled in a federal or state conservation program at a cropland rate two of the past five years qualify as acres with crop history.
- 2) Regarding riparian lands:
 - (a) the area should have crop history or be pasture that is actively being grazed. Narrow corridors or buffers of natural vegetation between the cropped or pastured area and the riparian source may be included in the easement. Landowners should be encouraged to donate these buffer areas, particularly acres that exceed 10% of the easement area.

2) Regarding riparian lands (contd.):

- (b) "adjacent to" is a subjective decision the SWCD must make. Generally, the field should be in close proximity to the riparian source and a direct conveyance route (e.g., gully, waterway, culvert, etc.) for surface water should exist between the field and the riparian source.

3) Regarding enrollments with a "wetland restoration area":

- (a) wetland restoration area(s) must have wetlands that were legally **drained** and are restorable. "Restorable" means that the project is financially practical and technically feasible:

Financially Practical: wetland restoration costs (excluding easement payments) should not exceed \$1,000 per acre of restored wetland.

Technically Feasible: wetland restorations cannot negatively impact adjacent lands not being enrolled in a RIM easement unless property rights are obtained.

A wetland that has been temporarily restored by a beaver dam is considered "restorable".

- (b) the drained wetland must have been sufficiently altered to render the basin suitable for agricultural crop production. This does not necessarily refer to present conditions. SWCDs will need to make a subjective decision regarding this eligibility issue and will not be required to provide documentation proving cropping suitability
- (c) adjacent lands may be enrolled as part of the easement area under the following conditions.
- adjacent land without qualifying crop history cannot exceed one acre for each acre of wetland to be restored (a 1:1 ratio); and
 - adjacent lands with qualifying crop history cannot exceed four acres for each acre of wetland to be restored (4:1 ratio).
 - the combined total cannot exceed 4:1.

Refer to the examples in Appendix A.

- (d) restored wetland cannot be used to mitigate other wetland losses
- (e) perpetual easements only

Please contact your board conservationist if you have specific questions relating to wetland restoration areas. General and specific guidelines are often complicated for projects involving multiple applications for a wetland restoration easement.

4) Regarding enrollments of "marginal agricultural cropland areas":

- (a) all acres must have been in agricultural crop production for at least two of the last five years prior to the date of application (see specific criteria #1 - *crop history*)
- (b) easement area must include at least 50 percent eligible soil types from the approved eligible soils list found in Appendix B of this section

5) Regarding enrollments with a "living snowfence area":

- (a) all acres must have been in agricultural crop production for at least two of the last five years prior to the date of application (see specific criteria #1 - *crop history*)
- (b) a windbreak of at least six rows of woody vegetation will be established and will benefit resource protection (i.e., reduce wind erosion or enhance wildlife habitat)
- (c) easement area must be located within 300 feet of the highway right-of-way, and must be approved by the County Highway Engineer or Minnesota Dept. of Transportation Highway Engineer, whichever is applicable
- (d) no minimum size requirement
- (e) perpetual easements only

6) Regarding enrollments of "pastured hillsides":

- (a) the easement area must have been actively pastured
- (b) at the time of application the easement area must show evidence of excessive erosion due to overgrazing

7) Regarding enrollments of "woodlots on agricultural land":

- (a) "agricultural land" means land devoted for use as pasture or hayland, or to the production of horticultural, row, close grown, introduced pasture, introduced hayland crops, or to growing nursery stock, or for the pasturing of domestic livestock or dairy animals, or for use as animal feedlots, and may include contiguous land associated with the production of the above
- (b) no minimum size requirement

8) Regarding enrollments of "abandoned building sites on agricultural land":

- (a) "agricultural land" meet the definition as written in item 7a
- (b) no minimum size requirement

8) Regarding enrollments of "abandoned building sites on agricultural land" (contd.):

- (c) all existing buildings must be removed from the easement area and all building foundations must be filled prior to conveyance of the easement;
- (d) removal of all buildings, filling of building foundations and the associated costs are the responsibility of the landowner
- (e) all wells on the easement area must be properly sealed prior to the conveyance of the easement and all associated costs are the responsibility of the landowner

9) Regarding "replacement wetland":

- (a) the wetland must meet all the wetland replacement provisions required in the Wetland Conservation Act (WCA) Rules, Chapter 8420
- (b) the RIM Reserve applicant must be the same landowner who drained or filled a WCA regulated wetland and replaced it by restoring a wetland on the property under a replacement plan approved by the local governmental unit (see WCA Rules, Chapter 8420)
- (c) no more than one acre of adjacent land can be enrolled for each acre of replacement wetland
- (d) the easement area must be no smaller than five acres unless it is a whole field as identified by ASCS
- (e) the landowner is eligible to apply for RIM Reserve no sooner than one year after the completion of the replacement project (see WCA Rules, Ch. 8420)
- (f) perpetual easements only

10) Regarding "sensitive groundwater":

- all acres must have been in agricultural crop production for at least two of the last five years prior to the date of application (see Specific Criteria #1 - *Crop History*)

11) Regarding other eligible land types:

- No specific criteria exist for the remaining eligible land types. Please refer to the statutory definition.

C. MAXIMUM ENROLLMENT

C.1 DEFINITION OF MAXIMUM ENROLLMENT

The amount of land that may be enrolled (not including donated acres) in the RIM Reserve Program at any given time by an **individual landowner** cannot exceed 20 percent of the average farm size in the county where the proposed easement area is located "**Individual landowner**", for the purposes of maximum enrollment, refers to the parties listed as owners on the deed for the property. **One maximum enrollment acreage is applied to each person listed as an owner on the deed.**

C.2 CALCULATION EXAMPLES OF LANDOWNER MAXIMUM

Deed shows husband and wife as joint tenants	= 2 x Max. Enrollment Acreage
Deed shows husband only, even though married	= 1 x Max. Enrollment Acreage
Deed shows four individuals as joint tenants	= 4 x Max. Enrollment Acreage
Deed shows a family farm partnership	= 1 x Max. Enrollment Acreage

C.3 MAXIMUM ENROLLMENT ACREAGE BY COUNTY

COUNTY	Ac.	COUNTY	Ac.	COUNTY	Ac.	COUNTY	Ac.
Aitkin	60	Fillmore	55	Martin	73	Rock	68
Anoka	24	Freeborn	64	Meeker	56	Roseau	120
Becker	73	Goodhue	49	McLeod	45	St. Louis	45
Beltrami	70	Grant	114	Mille Lacs	39	Scott	31
Benton	43	Hennepin	23	Morrison	47	Sherburne	44
Big Stone	114	Houston	56	Mower	65	Sibley	59
Blue Earth	70	Hubbard	58	Murray	83	Stearns	43
Brown	58	Isanti	37	Nicollet	62	Steele	57
Carlton	45	Itasca	51	Nobles	69	Stevens	106
Carver	37	Jackson	86	Norman	158	Swift	103
Cass	67	Kanabec	45	Olmsted	48	Todd	45
Chippewa	95	Kandiyohi	65	Ottertail	65	Traverse	161
Chisago	36	Kittson	185	Pennington	117	Wabasha	53
Clay	130	Koochiching	73	Pine	54	Wadena	57
Clearwater	72	Lac Qui Parle	85	Pipestone	65	Waseca	63
Cook	36	Lake	30	Polk	156	Washington	31
Cottonwood	73	Lk. of Woods	118	Pope	76	Watsonwan	75
Crow Wing	51	LeSueur	49	Ramsey	10	Wilkin	186
Dakota	51	Lincoln	73	Red Lake	104	Winona	53
Dodge	65	Lyon	77	Redwood	78	Wright	34
Douglas	54	Mahnomen	101	Renville	92	Yel. Med.	88
Faribault	82	Marshall	147	Rice	41		

Source: Department of Commerce 1992 Census of Agriculture. Statistics are updated every five years and available two years following the census.

D. CALCULATION OF PAYMENT RATES

Payment rates are established on an annual basis by the BWSR. The current basis for the rates is:

TYPE OF LAND	PERPETUAL	LIMITED
LANDS WITH CROP HISTORY ¹	90% of the ATAMV ²	75% of the ATAMV
LANDS WITHOUT CROP HISTORY	60% of the ATAMV	45% of the ATAMV

¹ Crop history payment rates can be used when acres to be enrolled in RIM Reserve have crop history (see Specific Criteria #1 - *Crop History*).

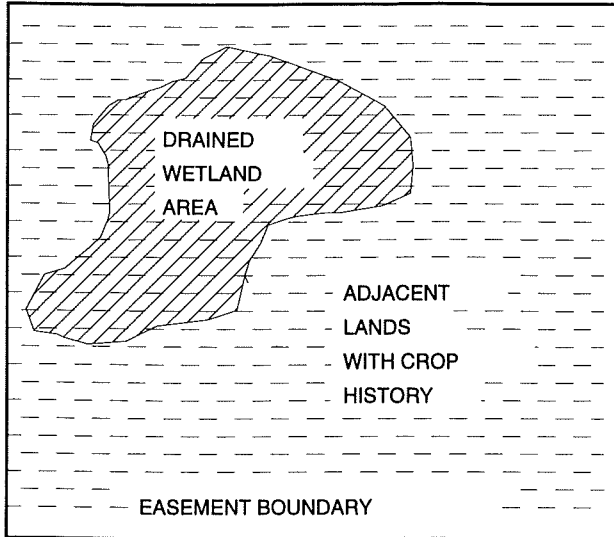
² "ATAMV" stands for the Assessor's Township Average Market Value.

REFER TO THE CURRENT TOWNSHIP PAYMENT RATES LOCATED IN THE APPLICATION STAGE TAB IN SECTION 2.

APPENDIX A

WETLAND RESTORATION ENROLLMENTS: Adjacent Land to Wetland Ratio Calculations

Example 1 shows an easement where the entire area had a previous cropping history. Once the wetland has been restored the maximum amount of eligible adjacent lands to the wetland area cannot exceed a ratio of 4 to 1.



Example 1.

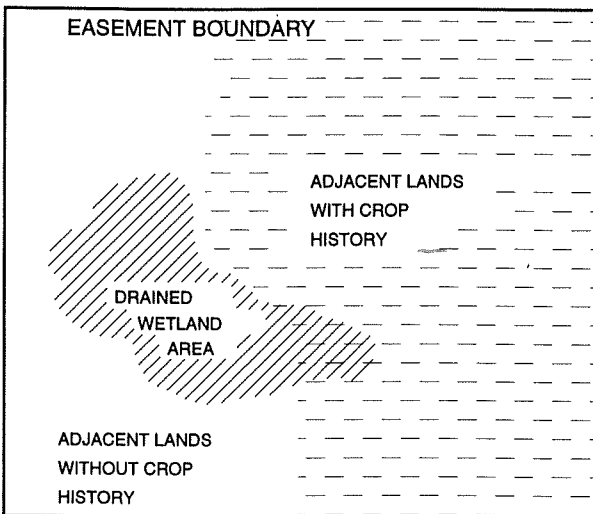
EXAMPLE

Drained wetland area = **6.3 acres**

Maximum allowable adjacent lands with a crop history = $6.3 \times \frac{4}{1} \text{ (4:1 maximum)} = 25.2$

Maximum allowable easement area = $6.3 \text{ (restored wetland area)} + 25.2 \text{ (max. adj. lands)} = 31.5 \text{ acres}$

Example 2 shows an easement area which contains some land with a previous cropping history and some land without it. Once the wetland has been restored the maximum amount of non-cropped adjacent lands to the wetland area cannot exceed an acreage ratio of 1 to 1. Additional adjacent lands that have a cropping history can be included in the easement as long as the ratio of all adjacent lands to the wetland area once restored does not exceed 4 to 1. Any other additional lands to be included in the easement cannot be compensated.



Example 2.

EXAMPLE

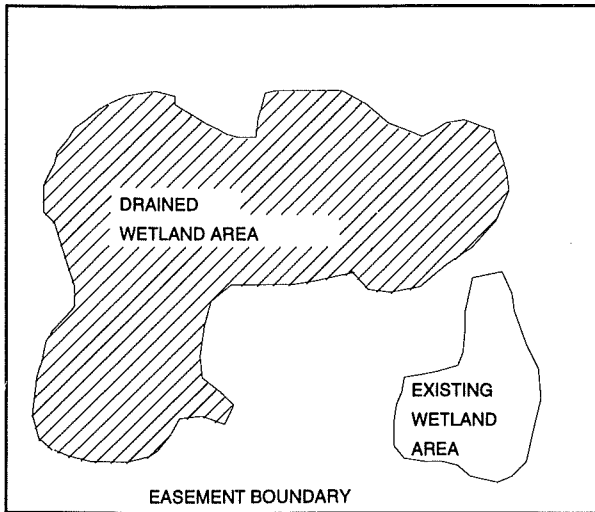
Drained wetland area = **11.2 acres**

Adjacent lands without a cropping history = **9.3 (max. is 1:1)**

Maximum allowable adjacent lands with a cropping history = $11.2 \text{ (restored wetland area)} \times \frac{4.0}{1} \text{ (4:1 maximum)} = 44.8 \text{ (max. adj. lands)}$
 $44.8 \text{ (max. adj. lands)} - 9.3 \text{ (adj. non-crop area)} = 35.5 \text{ acres}$

Maximum allowable easement area = $11.2 \text{ (restored wetland area)} + 35.5 \text{ (adj. crop area)} + 9.3 \text{ (adj. non-crop area)} = 56.0$

Example 3 shows an easement area which does not contain any adjacent land with a previous cropping history. Again, once the wetland is restored the maximum amount of adjacent lands to the wetland cannot exceed an acreage ratio of 1 to 1. This example also illustrates how an existing undrained wetland area can be included in the allowable easement area (payable by RIM Reserve).



Example 3.

EXAMPLE

Drained wetland area = **5.1 acres**

Maximum allowable
adjacent land
without a cropping
history (includes
existing wetland area) = **5.1 acres (1:1 max.)**

5.1 (restored wetland area)
+ 5.1 (adj. non-crop area)
Maximum allowable
easement area = **10.2 acres**

APPENDIX B

Insert the most current "Eligible Soils List" after this page.

PERMANENT WETLANDS PRESERVE (PWP) ELIGIBILITY INFORMATION

A. WETLANDS ELIGIBLE FOR PERMANENT WETLANDS PRESERVE

- A.1 Statutory Purpose
- A.2 Program Goals
- A.3 Hydrologic Regimes
- A.4 Wetland Types

B. PERMANENT WETLANDS PRESERVE PROGRAM ELIGIBILITY CRITERIA

- B.1 General Criteria
- B.2 Specific Criteria
 - crop history
 - hydrologic regime

C. MAXIMUM ENROLLMENT

D. CALCULATION OF PAYMENT RATES

A. WETLANDS ELIGIBLE FOR PERMANENT WETLANDS PRESERVE

A.1 STATUTORY PURPOSE

The statutory purpose (Minnesota Statutes, section 103F.516) of Permanent Wetlands Preserve is to:

" . . . acquire permanent easements on land containing type 1, 2, or 3 wetlands."

The statute was amended in 1994 to include type 6 as eligible wetlands.

A.2 PROGRAM GOALS

The BWSR encourages SWCDs and local screening committees to place a high priority on securing easements on wetland basins that are:

- highly susceptible to alteration
- farmed wetlands (types 1 and 2 with crop history)
- not protected by state or federal laws (e.g., Wetland Conservation Act (WCA), Public Waters Wetlands, Swampbuster, etc.)
- at low risk of being negatively impacted by activities on adjacent parcels not enrolled in the program

A.3 HYDROLOGIC REGIMES

The Federal Manual for Identifying and Delineating Jurisdictional Wetlands (January 1989) must be used to determine the presence and boundaries of a wetland. The hydrologic regimes eligible for Permanent Wetlands Preserve (PWP) can be generally described as follows:

1. Riverine:
wetland(s) contained within the banks of a channel that may contain moving water, or a wetland that forms a connecting link between two water bodies.
2. Floodplain:
wetland(s) located in the floodplain of a watercourse, with no well-defined inlets or outlets, including tile systems, ditches or natural watercourses.
3. Flow-through, non-depressional:
wetland(s) with both a well-defined outlet and one or more well-defined inlets, including tile systems, ditches, or natural watercourses.
4. Depressional:
wetland(s) confined to distinct depressional areas. The hydrology of the depressional basin may be confined or flow-through.

A.4 WETLAND TYPES

Type 1, 2, 3 or 6 wetlands are eligible for PWP. Wetland types are determined according to the publications Classification of Wetlands and Deepwater Habitats of the United States (Cowardin et al., 1979), and FWS Circular #39: Wetlands of the United States (Shaw and Fredine, 1971). Conversion of Cowardin et al. notation to Circular #39 is aided by the conversion key found in Table 1 below and the Department of Natural Resources (DNR) poster/brochure Wetland Types and Definitions.

Table 1. Wetland Classification Equivalency Chart.

(adapted from the WCA Permanent Rules, M.R. 8420, relating to wetland conservation.)

COWARDIN SYSTEM CLASS ¹	APPROXIMATE CIRCULAR 39 TYPE	COWARDIN SYSTEM CLASS ¹	APPROXIMATE CIRCULAR 39 TYPE	COWARDIN SYSTEM CLASS ¹	APPROXIMATE CIRCULAR 39 TYPE	COWARDIN SYSTEM CLASS ¹	APPROX. CIRCULAR 39 TYPE
PEMA	1	PSSA	6	PFOA	1	PML (all)	8
PEMB	2	PSSB	6	PFOB	7	PAB (all)	5
PEMC	3	PSS3B	8	PFOC	7	PUB (all)	5
PEMD	3	PSSC	6	PFOD	7	PRB (all)	5
PEME	3	PSSD	6	PFOE	7	POW (all)	5
PEMF	4	PSSE	6	PFOF	7	PUS (all)	5
PEMG	4	PSSF	6	PFOG	7	L1 (all)	5*
PEMH	4	PSSG	6	PFOH	7	L2 (all)	5
PEMJ	1	PSSH	6	PFOJ	1	R2 (all)	**
PEMK	4	PSSJ	6	PFOK	7	R3 (all)	**
PEMW	1	PSSK	6	PFOW	1	R4 (all)	**
PEMY	2	PSSW	6	PFOY	7		
PEMZ	4	PSSY	6	PFOZ	7		
PEMU	4	PSSZ	6	PFOU	7		
		PSSU	6				

¹Also includes subclass and Hydrologic Regime

* Circular 39 does not classify deepwater as a wetland type, but for purposes of this table, these areas can be approximated as type 5.

** No equivalent. Circular 39 does not address riverine wetlands.

NOTE: In the case of a wetland identified using the Cowardin system with both numerator and denominator wetland types, the numerator type is considered the dominant wetland type, with the exception that the denominator wetland type is to be used when the numerator wetland type vegetation is dead.

B. PERMANENT WETLANDS PRESERVE PROGRAM ELIGIBILITY CRITERIA

B.1 GENERAL CRITERIA

- 1) The land is owned by individuals, family farms, family farm partnerships, authorized farm partnerships, family farm corporations, authorized farm corporations, or estates or testamentary trusts. Definitions can be found in handbook's **Reference** section. Authorized farm corporations, or authorized farm partnerships, must provide proof that they are registered with the Minnesota Department of Agriculture. Nonprofit organizations are not eligible to convey a PWP easement to the state.
- 2) The land must have been owned by the applicant, or parent of the applicant, or blood relative of the applicant for at least one year before the date of application.
- 3) The land must be at least five acres in size in an unincorporated area, at least 2.5 acres in an incorporated area, or must be a whole field as defined by the Agricultural Stabilization and Conservation Service (ASCS), or must be a whole tax parcel as identified by the local assessor. **This requirement may be waived for a partial enrollment of a depressional basin (see Specific Criteria #3c - *Partial Basins*) where several parties are collectively enrolling parcels in the basin.**
- 4) The easement area can include up to four acres of upland for each acre of eligible wetland. Non-eligible wetland types cannot be included in the adjacent upland and will either need to be excluded from or donated to the easement area. *Easement areas including the minimum upland needed to protect the wetland from nutrient and sediment loading should be considered higher priority over easement areas containing the 4:1 ratio (this allows more easements to be funded). SWCDs have the authority to adopt policies that restrict the number of upland acres enrolled as an easement area to a ratio of less than 4:1 (this may be advantageous in terms of county tax base reductions due to conservation easements).*
- 5) The easement area must contain existing natural or restored wetlands at the time of application. Restored wetlands offered for enrollment must have been legally restored. Drained wetlands that are restorable under the specific criteria listed in the RIM Reserve Eligibility section of the handbook are not eligible for PWP.
- 6) The land must not be enrolled under another federal or state government program, or under another easement, whose purposes conflict with or substantially duplicates the terms of a PWP conservation easement. Release from contracts (e.g. Conservation Reserve Program or Federal Waterbank) must be obtained before the easement can be conveyed (recorded). Conservation easements must be evaluated on a case-by-case basis to determine whether or not they

substantially duplicate the PWP easement. For example, land enrolled in USDA's Wetland Reserve Program (WRP) would not be eligible because the same land rights that a PWP easement purchases - specifically cropping, grazing, no alteration of water levels and establishment and maintenance of conservation practices are also purchased under WRP.

- 7) The wetland is not a site used to mitigate a wetland loss.
- 8) Unused (abandoned) wells on the proposed easement area must be properly sealed before the easement can be conveyed. All associated costs to properly seal the wells are the responsibility of the landowner.
- 9) Hazardous substances, buried tanks, pollutants, or contaminants on the proposed easement area must be properly removed or cleaned up before the easement can be conveyed. All associated costs are the responsibility of the landowner.
- 10) No structures, temporary or permanent, can be located on the easement. Existing structures must be removed prior to conveying the easement, and all costs associated with the removal are the responsibility of the landowner.
- 11) Only perpetual easements are allowed for enrollment.
- 12) Wetlands identified on the DNR Public Waters Inventory are eligible to receive compensation and are eligible for enrollment.

B.2 SPECIFIC CRITERIA

Specific considerations and/or restrictions may pertain to terms and individual eligible hydrologic regimes. The following three items specify requirements that must be met for land to comply with the crop history definition, or for the wetlands to be enrolled as eligible riverine, floodplain, nondepressional or depressional basins.

- 1) Regarding all lands that will be compensated at the "land with crop history" easement payment rate:
 - "crop history" means the acres have been in agricultural crop production for at least two of the last five years (complete, annual cropping seasons) prior to the date of application. Introduced hayland and introduced pasture qualifies as crop history if the area has been cultivated in a rotation of row crops or small grains, or interseeded with introduced or native species, at least twice during the 10 years prior to the date of application, and has been harvested or grazed at least two of the five years prior to the date of application. Acres enrolled in a federal or state conservation program at a cropland rate two of the past five years qualify as crop history.

2) Regarding enrollments with a "riverine wetland", a "floodplain wetland", or a "non-depressional flow-through wetland":

- (a) the entire wetland area under applicant's ownership must be offered for enrollment
- (b) the applicant's owned portion of the basin offered for enrollment must contain at least 70% eligible wetland types - 1, 2, 3 or 6

3) Regarding enrollments with a "depressional wetland(s)":

- (a) The entire wetland basin (owned and non-owned area) must be classified as a type 1, 2 3 or 6 (refer to A.4 Wetland Types)
- (b) The entire wetland basin should be offered for enrollment
- (c) Partial wetland basins may be enrolled if all of the following conditions exist:
 - (i) the area offered for enrollment includes a majority (e.g., 75% or greater of the total acreage) of the depressional wetland basin
 - (ii) the area offered for enrollment includes all basin outlet(s)
 - (iii) there is a low probability that an outlet in any portion of the non-enrolled basin will be installed
 - (iv) the non-enrolled portion of the basin is adequately protected by the Wetland Conservation Act or other government regulations

For partial basin enrollments that do not meet all of these four conditions, but do offer significant resource protection with minimum risk that the basin will be adversely impacted, contact your board conservationist for approval to submit the application for funding consideration.

C. MAXIMUM ENROLLMENT

There are no restrictions on acreage enrollment for the PWP Program.

D. CALCULATION OF PAYMENT RATES

Payment rates are established on an annual basis by the state board. The current basis for the payment rates is:

Table 2. PERMANENT WETLAND PRESERVE PAYMENT RATES.

ELIGIBLE LANDS	ALL LAND Non-Metro	NON- AG LAND Metro Area ¹	AG LAND ² Metro Area
Cropped ³ Wetlands	90% of ATAMV ⁴	20% of ATAMV	90% of ATAMV
All Other Wetlands	50% of ATAMV	20% of ATAMV	50% of ATAMV
Cropped Adjacent Uplands	90% of ATAMV	60% of ATAMV	90% of ATAMV
Non-Cropped Adjacent Uplands	60% of ATAMV	60% of ATAMV	60% of ATAMV

¹ "METRO AREA" includes the following counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington.

² "AG LAND" means at least 50% of the easement area is devoted to use as pasture or hayland, or to the production of horticultural, row, close grown, introduced pasture, introduced hayland crops, and growing nursery crops. In addition, use "Ag Land" rates for parcels enrolled in Ag Land Preserves or Green Acres.

³ "CROPPED" means the area has been planted to agricultural crops for two of the past five years prior to the date of application or is introduced pasture or hayland that has been interseeded or in a rotation of row crop or small grain at least twice in the last 10 years and has been harvested twice in the last five years. See B.2 Specific Criteria for a full definition.

⁴ "ATAMV" stands for the Assessor's Township Average Market Value or other factor as established annually by the state board..

REFER TO THE CURRENT TOWNSHIP PAYMENT RATES LOCATED IN THE APPLICATION STAGE TAB OF SECTION 2.

Reference

REINVEST IN MINNESOTA RESOURCES ACT INDEX

103F.501.	Short Title
103F.505.	Purpose and policy
103F.511.	Definitions
103F.515.	Conservation reserve program
103F.516.	Permanent wetlands preserve
103F.521.	Cooperation and technical assistance
103F.525.	Supplemental payments on federal and state conservation programs
103F.526.	Food plots in windbreaks
103F.531.	Rulemaking

REINVEST IN MINNESOTA RESOURCES ACT

The following text was transcribed from the 1993 Annotated Statutes.

103F.501. Short title

Sections 103F.505 to 103F.531 may be cited as the "reinvest in Minnesota resources law."

103F.505. Purpose and policy

It is the purpose of sections 103F.505 to 103F.531 to keep certain marginal agricultural land out of crop production to protect soil and water quality and support fish and wildlife habitat. It is state policy to encourage the retirement of marginal, highly erodible land, particularly land adjacent to public waters, drainage systems, wetlands, and locally designated priority waters, from crop production and to reestablish a cover of perennial vegetation.

103F.511. Definitions

Subdivision 1. Applicability. The definitions in this section apply to sections 103F.505 to 103F.535.

Subd. 2. Board. "Board" means the board of water and soil resources.

Subd. 3. Conservation easement. "Conservation easement" means a conservation easement as defined in section 84C.01.

Subd. 4. Conservation reserve program. "Conservation reserve program" means the program established under section 103F.515.

Subd. 5. Drained wetland. "Drained wetland" means a former natural wetland that has been altered by draining, dredging, filling, leveling, or other manipulation sufficient to render the land suitable for agricultural crop production. The alteration must have occurred before December 23, 1985, and must be a legal alteration as determined by the commissioner of natural resources.

Subd. 6. Landowner. "Landowner" means individuals, family farms, family farm partnerships, authorized farm partnerships, family farm corporations and authorized farm corporations as defined under section 500.24, subdivision 2, and estates and testamentary trusts, which either own eligible land or are purchasing eligible land under a contract for deed.

Subd. 7. Marginal agricultural land. "Marginal agricultural land" means land that is:

(1) composed of class IIIe, IVe, V, VI, VII, or VIII land as identified in the land capability classification system of the United States Department of Agriculture; or

(2) similar to land described under clause (1) and identified under a land classification system selected by the board.

Subd. 8. Public waters. "Public waters" means waters and wetlands as defined in section 103G.005, and inventoried under section 103G.201.

Subd. 8a. Riparian land. "Riparian land" means land adjacent to public waters, drainage systems, wetlands, or locally designated priority waters identified in a comprehensive local water plan, as defined in section 103B.3363, subdivision 3.

Subd. 9. Sensitive groundwater area. "Sensitive groundwater area" means a geographic area defined by natural features where there is a significant risk of groundwater degradation from activities conducted at or near the land surface. These areas may be identified by mapping or other appropriate methods determined by the commissioner of natural resources and the board of water and soil resources. Wellhead protection areas may be designated as a sensitive groundwater area.

Subd. 10. Wetland. "Wetland" means land that has a predominance of hydric soils and that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, or that periodically does support, a predominance of hydrophytic vegetation typically adapted for life in saturated soil conditions.

Subd. 11. Windbreak. "Windbreak" means a strip or belt of trees, shrubs, or grass barriers at least six rows deep and within 300 feet of the right-of-way of a highway.

103F.515. Conservation reserve program

Subdivision 1. Establishment of program. The board, in consultation with the commissioner of agriculture and the commissioner of natural resources, shall establish and administer a conservation reserve program. The board shall implement sections 103F.505 to 103F.531. Selection of land for the conservation reserve program must be based on its potential for fish and wildlife production, reducing erosion, and protecting water quality.

Subd. 2. Eligible land. (a) Land may be placed in the conservation reserve program if the land meets the requirements of paragraphs (b) and (c).

(b) Land is eligible if the land:

- (1) is marginal agricultural land;
- (2) is adjacent to marginal agricultural land and is either beneficial to resource protection or necessary for efficient recording of the land description;
- (3) consists of a drained wetland;
- (4) is land that with a windbreak would be beneficial to resource protection;
- (5) is land in a sensitive groundwater area;
- (6) is riparian land;
- (7) is cropland or noncropland adjacent to restored wetlands to the extent of up to four acres of cropland or one acre of noncropland for each acre of wetland restored;
- (8) is a woodlot on agricultural land;
- (9) is abandoned building site on agricultural land, provided that funds are not used for compensation of the value of the buildings; or
- (10) is land on a hillside used for pasture.

(c) Eligible land under paragraph (a) must:

(1) be owned by the landowner, or a parent or other blood relative of the landowner, for at least one year before the date of application;

(2) be at least five acres in size, except for a windbreak, woodlot, or abandoned building site, or be a whole field as defined by the United States Agricultural Stabilization and Conservation Services;

(3) not be set aside, enrolled or diverted under another federal or state government program; and

(4) have been in agricultural crop production for at least two of the last five years before the date of application except drained wetlands, riparian lands, woodlots, abandoned building sites, or land on a hillside used for pasture.

(d) The enrolled land of a landowner may not exceed 20 percent of the average farm size in the county where the land is being enrolled according to the average farm size determined by the United State Department of Agriculture, Census of Agriculture.

(e) In selecting drained wetlands for enrollment in the program, the highest priority must be given to wetlands with a cropping history during the period 1976 to 1985.

(f) In selecting land for enrollment in the program, highest priority must be given to permanent easements that are consistent with the purposes stated in section 103F.505.

Subd. 3. Conservation easements. The board may acquire conservation easements on eligible land. An easement may be permanent or of limited duration. An easement acquired on land for windbreak purposes, under subdivision 2, may be only of permanent duration. An easement of limited duration may not be acquired if it is for a period less than 20 years. The negotiation and acquisition of easements authorized by this section are exempt from the contractual provisions of chapter 16B.

Subd. 4. Nature of property rights acquired. (a) A conservation easement must prohibit:

(1) alteration of wildlife habitat and other natural features, unless specifically approved by the board;

(2) agricultural crop production, unless specifically approved by the board for wildlife management purposes;

(3) grazing of livestock except, for agreements entered before the effective date of Laws 1990, chapter 391, grazing of livestock may be allowed only if approved by the board after consultation with the commissioner of natural resources, in the case of severe drought, or a local emergency declared under section 12.29; and

(4) spraying with chemicals or mowing, except as necessary to comply with noxious weed control laws or emergency control of pests necessary to protect public health.

(b) A conservation easement is subject to the terms of the agreement provided in subdivision 5.

(c) A conservation easement must allow repairs, improvements, and inspections necessary to maintain public drainage systems provided the easement area is restored to the condition required by the terms of the conservation easement.

Subd. 5. Agreements by landowner. The board may enroll eligible land in the conservation reserve program by signing an agreement in recordable form with a landowner in which the landowner agrees:

(1) to convey to the state a conservation easement that is not subject to any prior title, lien, or encumbrance;

(2) to seed the land subject to the conservation easement, as specified in the agreement, to establish and maintain perennial cover of either a grass-legume mixture or native grasses for the term of the easement, at seeding rates determined by the board; or to plant trees or carry out other long-term capital improvements approved by the board for soil and water conservation or wildlife management;

(3) to convey to the state a permanent easement for the wetland restoration;

(4) that other land supporting natural vegetation owned or leased as part of the same farm operation at the time of application, if it supports natural vegetation or has not been used in agricultural crop production, will not be converted to agricultural crop production or pasture; and

(5) that the easement duration may be lengthened through mutual agreement with the board in consultation with the commissioners of agriculture and natural resources if they determine that the changes effectuate the purpose of the program or facilitate its administration.

Subd. 6. Payments for conservation easements and establishment of cover. (a) The board must make the following payments to the landowner for the conservation easement and agreement:

(1) to establish the perennial cover or other improvements required by the agreement, up to 75 percent of the total eligible cost not to exceed \$75 per acre for limited duration easements, 100 percent of the total eligible cost not to exceed \$100 per acre for perpetual easements, and 100 percent of the total eligible cost of wetland restoration not to exceed \$300 per acre;

(2) for the cost of planting trees required by the agreement, up to 75 percent of the total eligible cost not to exceed \$200 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed \$300 per acre for perpetual easements;

(3) for a permanent easement, 70 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue at the time of easement application;

(4) for an easement of limited duration, 90 percent of the present value of the average of the accepted bids for the federal conservation reserve program, as contained in Public Law Number 99-198, in the relevant geographic area and on bids accepted at the time of easement application; or

(5) an alternative payment system for easements based on cash rent or a similar system as may be determined by the board.

(b) For hillside pasture conservation easements, the payments to the landowner in paragraph (a) for the conservation easement and agreement must be reduced to reflect the value of similar property.

Subd. 7. Easement renewal. When a conservation easement of limited duration expires, a new conservation easement and agreement for an additional period of not less than 20 years may be acquired by agreement of the board and the landowner, under the terms of this section. The board may adjust payment rates as a result of renewing an agreement and conservation easement only after examining the condition of the established cover, conservation practices, and land values.

Subd. 8. Correction of conservation easement boundary lines. To correct error in legal descriptions for easements that affect the ownership interests in the state and adjacent landowners, the board may, in the name of the state, with the approval of the attorney general, convey, without consideration, interests of the state necessary to correct legal descriptions of boundaries. The conveyance must be by quitclaim deed or release in a form approved by the attorney general.

Subd. 9. Enforcement and damages. (a) A landowner who violates the term of a conservation easement or agreement under this section, or induces, assists, or allows another to do so, is liable to the state for treble damages if the trespass is willful, but liable for double damages only if the trespass is not willful. The amount of damages is the amount needed to make the state whole or the amount the landowner has gained due to the violation, whichever is greater.

(b) Upon the request of the board, the attorney general may commence an action for specific performances, injunctive relief, damages, including attorney's fees, and any other appropriate relief to enforce sections 103F.505 to 103F.531 in district court in the county where all or part of the violation is alleged to have been committed, or where the landowner resides or has a principal place of business.

103F.516. Permanent wetlands preserve

Subdivision 1. Easements. Upon application by a landowner, the board may acquire permanent easements on land containing type 1, 2, or 3 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition).

Subd. 2. Nature of property rights acquired. (a) The nature of property rights acquired in an easement under this section must be consistent with the provisions of section 103F.515, subdivision 4.

(b) A permanent easement may include four adjacent upland acres of land for each acre of wetland included.

(c) The easement must require that the landowner control noxious weeds in accordance with sections 18.171 to 18.317.

(d) The permanent easement must be conveyed to the state in recordable form free of any prior title, lien, or encumbrance and must provide for a right of entry by the state for inspection and correction of violations.

Subd. 3. Payment. (a) Payment for the conservation easement may be made in ten equal annual payments or, at the option of the land owner, in a lump sum at:

(1) 50 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue at the time of easement application for wetlands located outside of the metropolitan counties, as defined in section 473.121, subdivisions 4, and wetlands located on agricultural lands within a metropolitan county; or

(2) for wetlands located on nonagricultural land within the metropolitan county, 20 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue at the time of easement application.

(b) Payment for adjacent upland acreage of cropped and noncropped land under subdivision 2, paragraph (b), must be made at 90 percent and 60 percent, respectively, of the township average equalized market value of agricultural land as established by the commissioner of revenue at the time of easement application.

Subd. 4. Enforcement and corrections. Enforcement of the permanent easement and violation corrections is governed by section 103F.515, subdivisions 8 and 9.

Subd. 5. Available funds. A property owner eligible for payments under this section must receive payments to the extent that funds are available. If funds are not available and payments are not made, restrictions on the use of the property owner's wetlands are terminated under this section.

103F.521. Cooperation and technical assistance

Subdivision 1. Cooperation. In implementing sections 103F.505 to 103F.531, the board must share information and cooperate with the department of agriculture, the department of natural resources, the pollution control agency, the United States Fish and Wildlife Service, the Agricultural Stabilization and Conservation Service and Soil Conservation Service of the United States Department of Agriculture, the Minnesota extension service, the University of Minnesota, county boards, and interested private organizations and individuals.

Subd. 2. Technical assistance. (a) The board and the commissioners of agriculture and natural resources must provide necessary technical assistance to landowners enrolled in the conservation reserve program. The commissioner of natural resources must provide technical advice and assistance to the board on:

(1) the form and content of the conservation easement and agreement;

(2) forestry and agronomic practices; and

(3) hydrologic and hydraulic design relating to the establishment and maintenance of permanent cover, or other conservation improvements.

(b) The commissioner of transportation must provide technical advice and assistance to the board and the commissioner of natural resources on the planting of windbreaks adjacent to highways.

(c) The board and the commissioners of agriculture and natural resources shall jointly prepare an informational booklet on the conservation reserve program and other state and federal programs for land acquisition, conservation, and retirement to be made available to eligible landowners and the general public.

103F.525. Supplemental payments on federal and state conservation programs

The board may supplement payments made under federal land retirement programs to the extent of available appropriations other than bond proceeds. The supplemental payments must be used to establish perennial cover on land enrolled or increase payments for land enrollment in programs approved by the board, including the federal conservation reserve program and federal and state water bank program.

103F.526 Food plots in windbreaks

The board, in cooperation with the commissioner of natural resources, may authorize wildlife food plots on land with windbreaks.

103F.531. Rulemaking

The board may adopt rules to implement sections 103F.505 to 103F.531. The rules must include standards for tree planting so that planting does not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage ditches.

The definitions below were transcribed from Minnesota Statutes 500.24 that define the term "landowner" for conservation easement eligibility:

Subd. 2. Definitions. "For the purposes of this section, the terms defined in this subdivision have the meanings here given them:

(b) "Family farm" means an unincorporated farming unit owned by one or more persons residing on the farm or actively engaging in farming.

(c) "Family farm corporation" means a corporation founded for the purpose of farming and the ownership of agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons or the spouses of persons related to each other within the third degree of kindred according to the rules of the civil law, and at least one of said related persons is residing on or actively operating the farm, and none of whose stockholders are corporations; provided that a family farm corporation shall not cease to qualify as such hereunder by reason of any devise or bequest of shares of voting stock.

(d) "Authorized farm corporation" means a corporation meeting the following standards:

(1) its shareholders do not exceed five in number;

(2) all its shareholders, other than any estate are natural persons;

(3) it does not have more than one class of shares; and

(4) its revenues from rent, royalties, dividends, interest and annuities does not exceed 20 percent of its gross receipts; and

(5) shareholders holding 51 percent or more of the interest in the corporation must be residing on the farm or actively engaging in farming;

(6) the authorized farm corporation, directly or indirectly, owns or otherwise has an interest, whether legal, beneficial, or otherwise, in any title to no more than 1,500 acres of real estate used for farming or capable of being used for farming in this state; and

(7) a shareholder of the authorized farm corporation is not a shareholder in other authorized farm corporations that directly or indirectly in combination with the authorized farm corporation own not more than 1,500 acres of real estate used for farming or capable of being used for farming in this state.

(h) "Family farm partnership" means a limited partnership formed for the purpose of farming and the ownership of agricultural land in which the majority of the interests in the partnership is held by and the majority of the partners are persons or the spouses of persons related to each other within the third degree of kindred according to the rules of the civil law, and at least one of the related persons is residing on or actively operating the farm, and none of the partners are corporations. A family farm partnership does not cease to qualify as a family farm partnership because of a devise or bequest of interest in the partnership.

(i) "Authorized farm partnership" means a limited partnership meeting the following standards:

(1) it has been issued a certificate from the secretary of state or is registered with the county recorder and farming and ownership of agricultural land is stated as a purpose or character of the business;

(2) its partners do not exceed five in number;

(3) all its partners, other than an estate, are natural persons;

(4) its revenues from rent, royalties, dividends, interest, and annuities do not exceed 20 percent of its gross receipts;

(5) its general partners hold at least 51 percent of the interest in the land assets of the partnership and reside on the farm or are actively engaging farming not more than 1,500 acres as a general partner in an authorized limited partnership;

(6) its limited partners do not participate in the business of the limited partnership including operating, managing, or directing management of farming operations;

(7) the authorized farm partnership, directly or indirectly, does not own or otherwise have an interest, whether legal, beneficial, or otherwise, in a title to more than 1,500 acres of real estate used for farming or capable of being used for farming in this state; and

(8) a limited partner of the authorized farm partnership is not a limited partner in other authorized farm partnerships that directly or indirectly in combination with the authorized farm partnership own not more than 1,500 acres of real estate used for farming or capable of being used for farming in this state.

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Adopted Permanent Rules Relating to Reinvest in Minnesota Conservation Reserve and Permanent Wetlands Preserve Programs

The following text was transcribed from the adopted rule, effective 10-1-94.

8400.3000 AUTHORITY.

Minnesota Statutes, sections 84.95, 103A.209, and 103F.501 to 103F.531, authorize the state board, in consultation with districts, private groups, and state and federal agencies to implement a program to (a) acquire permanent easements on land containing type 1, 2, 3, or 6 wetlands; (b) to retire certain marginal agricultural land from agricultural crop production or pasturing and to reestablish perennial cover on that land; and (c) to enhance and protect other private lands. Parts 8400.3000 to 8400.3930 provide procedures and criteria to be followed by the state board and district boards in implementing Minnesota Statutes, sections 103F.501 to 103F.531.

8400.3030 DEFINITIONS.

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

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

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

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

Subp. 3a. **Agricultural land.** "Agricultural land" means land devoted for use as pasture or hayland for domestic livestock or dairy animals, or to agricultural crop production or to growing nursery stocks, or for use as animal feedlots, and may include contiguous land associated with these uses.

Subp. 4. **Annual plan.** "Annual plan" means a plan prepared by the district under Minnesota Statutes, section 103C.331, subdivision 11, and according to the most recent version of the Guidelines for Soil and Water Conservation District Comprehensive and Annual Plans published by the state board. That publication is subject to periodic change. The current version is available at the district office and state board office and is incorporated by reference.

Subp. 5. **Approved practice.** "Approved practice" means a soil and water conservation practice or wildlife habitat enhancement that may be established on an easement area and is described in the easement program practice specifications.

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

Subp. 6a. **Authorized farm partnership.** "Authorized farm partnership" has the meaning given in Minnesota Statutes, section 500.24, subdivision 2.

Subp. 8. [Repealed 10-1-94]

Subp. 9. **Conservation agreement.** "Conservation agreement" means a written contract stating the terms and conditions for conveying a conservation easement by the landowner to the state.

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

Subp. 10a. **Conservation easement handbook.** "Conservation easement handbook" means the current edition of the state board's publication containing detailed procedures and guidelines for implementing the conservation easement programs administered by the state board. This publication is subject to periodic change, is available at the state board office and at district offices, and is incorporated herein by reference.

Subp. 10b. **Conservation easement program.** "Conservation easement program" refers to both the RIM reserve program, as defined in subpart 42, and the permanent wetlands preserve program, as defined in subpart 36a.

Subp. 11. **Conservation plan.** "Conservation plan" means a written description and map of the approved practices that must be applied to or that already exist on the easement area.

Subp. 11a. **Cost-shared practice.** "Cost-shared practice" means an approved practice which qualifies for cost-sharing through a conservation easement program administered by the state board.

Subp. 12. [Repealed 10-1-94]

Subp. 13. [Repealed 10-1-94]

Subp. 14. **District.** "District" means a local soil and water conservation district.

Subp. 15. **District board.** "District board" means the board of supervisors of a soil and water conservation district.

Subp. 16. [Repealed 10-1-94]

Subp. 17. **District technical representative.** "District technical representative" means a district employee or other designee assigned by the district who has expertise in the design and application of approved practices.

Subp. 17a. **Drained wetland.** "Drained wetland" means a former natural wetland that has been altered by draining, dredging, filling, leveling, or other manipulation sufficient to render the land suitable for agricultural crop production. The alteration must have occurred before December 23, 1985, and must be a legal alteration as determined by the commissioner of natural resources.

Subp. 17b. **Easement program practice specifications.** "Easement program practice specifications" means the detailed descriptions of the approved practices that are allowed on lands enrolled in the conservation easement programs. This information is contained in the current edition of the conservation easement handbook, a publication of the state board that is defined in subpart 10a.

Subp. 18. [Repealed 10-1-94]

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

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

Subp. 20a. **Family farm partnership.** "Family farm partnership" has the meaning given in Minnesota Statutes, section 500.24, subdivision 2.

Subp. 22b. **Farmed wetland.** "Farmed wetland" means a wetland, as defined by subpart 48, that has been devoted to agricultural crop production, as defined by subpart 2, since December 23, 1985.

Subp. 21. [Repealed 10-1-94]

Subp. 22. [Repealed 10-1-94]

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

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

Subp. 25. **Hydric soils.** "Hydric soils" means soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. A current list of hydric soils is available at the state board office and the district office, is subject to periodic change, and is incorporated herein by reference.

Subp. 26. **Hydrophytic vegetation.** "Hydrophytic vegetation" means macrophytic plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

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

Subp. 28. **Inherently unproductive.** "Inherently unproductive" means that the soil properties of available water capacity, bulk density, and pH in the uppermost 100 centimeters (39 inches) of a soil are present so that an unfavorable rooting environment exists for agricultural crop production.

Subp. 29. **Introduced hayland.** "Introduced hayland" means an area devoted to the production of forage that has been cultivated in a rotation of row crops or small grains or interseeded with introduced or native species at least twice during the ten years prior to applying for enrollment in a conservation easement program. These areas must have been harvested by mechanical methods at least two years during the five years prior to applying for enrollment in a conservation easement program.

Subp. 30. **Introduced pasture.** "Introduced pasture" means an area devoted to the production of forage that has been cultivated in a rotation of row crops or small grains or interseeded with introduced or native species at least twice during the ten years prior to applying for enrollment in a conservation easement program. These areas must have been harvested by grazing at least two years during the five years prior to applying for enrollment in a conservation easement program.

Subp. 31. **Landowner.** "Landowner" means an individual, family farm, family farm partnership, authorized farm partnership, family farm corporation, authorized farm corporation,

estate, or testamentary trust, who either owns eligible land or is purchasing eligible land under a contract for deed in Minnesota.

Subp. 31a. **Land with crop history.** "Land with crop history" means land that has produced horticultural, row, or close grown crops or that has been enrolled at a cropland rate in a federal or state conservation program at least two of the five years prior to applying for enrollment in a conservation easement program, or land that meets the definition of introduced hayland in subpart 29, or land that meets the definition of introduced pasture in subpart 30. For the purposes of parts 8400.3000 to 8400.3930, land with crop history includes acres devoted to "set aside" or "conserving use" for the United States Department of Agriculture programs.

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

Subp. 33. **Marginal agricultural land.** "Marginal agricultural land" for the RIM reserve program means agricultural land that is: (1) composed of class IIIe, IVe, V, VI, VII, or VIII land as identified in the land capability classification system of the United States Department of Agriculture; or (2) similar to land described under clause (1) and identified under a land classification system selected by the state board that is composed of soils that are inherently unproductive, as defined in subpart 28, for agricultural crop production or likely to cause significant potential environmental impact, as defined in subpart 44.

If the state selects a land classification system as provided by clause (2), the state board will provide districts with a list of soil mapping units indicative of marginal agricultural land. Districts, upon state board approval, may change the list as necessary to reflect local soil characteristics. A current list is available at the state board office and at district offices, is subject to periodic change, and is incorporated herein by reference.

Subp. 33a. **Pasture.** "Pasture" means land used for grazing by domestic livestock and land which is not considered land with crop history as defined in subpart 31a.

Subp. 33b. **Pastured hillside.** "Pastured hillside" means land on a hillside that is used for pasture as defined in subpart 33a or used for introduced pasture as defined in subpart 30.

Subp. 34. [Repealed 10-1-94]

Subp. 35. [Repealed 10-1-94]

Subp. 36. **Perennial cover.** "Perennial cover" means the water area created by restoring a drained wetland or the perennial vegetation established under a conservation easement program, or the perennial vegetation or the water or wetland areas that already exist on the easement area.

Subp. 36a. **Permanent wetlands preserve program.** "Permanent wetlands preserve program" means the program established under Minnesota Statutes, section 103F.516.

Subp. 37. [Repealed 10-1-94]

Subp. 38. [Repealed 10-1-94]

Subp. 39. [Repealed 10-1-94]

Subp. 39a. **Public waters.** "Public waters" means waters as defined in Minnesota Statutes, section 103G.005, subdivision 15, and inventoried under Minnesota Statutes, section 103G.201. A copy of the inventory is available in the district office.

Subp. 39b. **Public waters wetlands.** "Public waters wetlands" means wetlands as defined in Minnesota Statutes, section 103G.005, subdivision 18.

Subp. 39c. **Replacement wetland.** "Replacement wetland" means a wetland that has been replaced under Minnesota Statutes, section 103G.2242.

Subp. 40. **Restorable drained wetland.** "Restorable drained wetland" means a drained wetland as defined in subpart 17a that is practical to restore and for which the state board is able to secure the necessary land rights of adjacent landowners.

Subp. 41. [Repealed 10-1-94]

Subp. 42. **RIM reserve program.** "RIM reserve program" means the program established in Minnesota Statutes, section 103F.515 and 103F.525.

Subp. 42a. **Riparian land.** "Riparian land" means land adjacent to public waters, drainage systems, wetlands, or locally designated priority waters identified in a comprehensive local water plan, as defined in Minnesota Statutes, section 103B.3363, subdivision 3.

Subp. 43. **Screening committee.** "Screening committee" means a group established by the district board to assist in implementing the conservation easement programs. The screening committee is chaired by a district board member and is composed of representatives of private, state, and local organizations or clubs, and local, state, and federal agencies with an interest in the conservation easement programs.

Subp. 43a. **Sensitive ground water area.** "Sensitive ground water area" means a geographic area defined by natural features where there is a significant risk of ground water degradation from activities conducted at or near the land surface. These areas may be identified by mapping or other appropriate methods determined by the commissioner of natural resources and the state board. Wellhead protection areas and land that is adjacent and draining to a sinkhole may be designated as a sensitive ground water area.

Subp. 44. **Significant potential environmental impact.** "Significant potential environmental impact" means that the use of agricultural land may result in surface or ground water quality degradation or deposition of eroded sediments on property of adjacent landowners due to the soil properties of erosion potential, permeability, runoff potential, slope stability, or depth to watertable.

Subp. 45. **Soil and water conservation practice.** "Soil and water conservation practice" means structural or vegetative practices applied to land for the purposes of controlling soil erosion, sediment, agricultural waste, or other water pollutants.

Subp. 46. **Soil mapping unit.** "Soil mapping unit" means a unit or type of soil or combination of soils shown on a soil survey map.

Subp. 47a. **State board.** "State board" means the Board of Water and Soil Resources.

Subp. 48. **Wetland.** "Wetland" means land that has a predominance of hydric soils and that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, or that periodically does support, a predominance of hydrophytic vegetation.

8400.3060 CRITERIA FOR ALLOCATION OF FUNDS.

The state board must annually allocate funds available to implement the conservation easement programs based on the following criteria:

A. the number or cost of applications accepted for enrollment in the conservation easement programs administered by the state board, or conservation easements conveyed to the state board within each district;

B. the need for soil erosion or sediment control, protection or improvement of water quality, or improvement of fish and wildlife habitat, within a specified geographical area as determined by the state board, or as identified in the annual plan of each district or in any comprehensive local water plans prepared pursuant to Minnesota Statutes, sections 103B.231, 103B.255, 103B.311, 103D.401, or 103D.405;

C. the cumulative degree of soil erosion or sediment control, protection or improvement of water quality, or improvement of fish and wildlife habitat likely to be accomplished by the enrollment of selected easement areas; and

D. the expressed interest and readiness of each district board, as well as cooperating groups and agencies, to implement the conservation easement programs.

The allocated funds may be increased, decreased, or shifted by the state board as necessary to maximize the use of available funds among districts. In selecting land for enrollment in the RIM reserve program, highest priority must be given to permanent conservation easements pursuant to Minnesota Statutes, section 103F.515 subdivision 2, paragraph (f).

8400.3110 DURATION OF CONSERVATION EASEMENTS.

For purposes of the RIM reserve program, a conservation easement may be permanent or of limited duration. A conservation easement acquired on restorable drained wetlands, replacement wetlands, or land for highway windbreak purposes, must be of permanent duration. A conservation easement of limited duration may be acquired on other eligible land within a district if it is for a period not less than 20 years and only if the state board has approved enrollment of limited duration conservation easements in that district.

All permanent wetlands preserve program conservation easements must be of permanent duration.

8400.3130 LOCAL PRIORITY SETTING.

Annually, the participating district board shall call at least one screening committee meeting. The screening committee must establish priorities within the district. Establishment of priorities must be based on the following criteria:

- A. the priorities established by the state board;
- B. the location of high priority soil erosion or water quality problem areas in the district as outlined in the district comprehensive and annual plans and any comprehensive local water plans prepared pursuant to Minnesota Statutes, sections 103B.231, 103B.255, 103B.311, 103D.401, or 103D.405;
- C. the potential for fish and wildlife production, soil erosion reduction, and water quality protection;
- D. recommendations from technical agricultural and natural resources experts familiar with the district;
- E. the established priorities of the agencies and organizations represented on the screening committee;
- F. maximizing the benefits of current programs administered by the United States Agricultural Stabilization and Conservation Service, United States Fish and Wildlife Service, and Minnesota Department of Natural Resources; and
- G. the amount of conservation easement program funds available.

8400.3160 CRITERIA FOR ELIGIBLE LAND.

Subpart 1. **RIM reserve program.** Land eligible for the RIM reserve program must be at least one of the following:

- A. marginal agricultural land;
- B. agricultural land adjacent to marginal agricultural land that is being enrolled if enrollment of the adjacent agricultural land is beneficial to resource protection or necessary for efficient recording of the land description and if at least 50 percent of the total proposed acreage is marginal agricultural land;
- C. a restorable drained wetland on agricultural land;
- D. agricultural land adjacent to a restorable drained wetland that is being enrolled if enrollment of the adjacent land is beneficial to resource protection or necessary for efficient recording of the land description, and no more than four acres of adjacent land with crop history nor more than one acre of adjacent land without crop history for each acre of restored wetland is enrolled;

E. agricultural land that with a highway windbreak would be beneficial to resource protection;

F. agricultural land in a sensitive ground water area;

G. agricultural riparian land;

H. a woodlot on agricultural land;

I. an abandoned building site on agricultural land;

J. a pastured hillside;

K. a replacement wetland on agricultural land; or

L. agricultural land adjacent to a replacement wetland that is being enrolled if enrollment of the adjacent agricultural land is beneficial to resource protection or necessary for efficient recording of the land description, and no more than one acre of adjacent agricultural land for each acre of replacement wetland is enrolled.

Subpart 2. Minimum acreage requirements; RIM reserve program. A district board may limit the enrollment of eligible land with crop history adjacent to a restorable drained wetland to less than the maximum allowable four acres for each acre of restored wetland. A district board may waive the minimum acreage requirement for a landowner:

A. who owns part of a restorable drained wetland that will be restored, in whole or part, upon enrollment in the RIM reserve program through the cooperation of adjacent owners of the restorable drained wetland; or

B. whose enrollment in the RIM reserve program of a portion of an eligible replacement wetland is dependent upon the collective enrollment of additional adjacent owners of the replacement wetland.

In addition, land eligible for the RIM reserve program must have all four characteristics listed in subitems (1) to (4). Eligible land must be:

(1) land with crop history, except restorable drained wetlands, agricultural land adjacent to restorable drained wetlands, riparian lands, woodlots, abandoned building sites, or pastured hillsides;

(2) owned by the landowner or a parent or other blood relative of the landowner, for at least one year before the date of application;

(3) at least five acres in size, except for a highway windbreak, or a woodlot or abandoned building site, or must be a whole field as defined by the Agricultural Stabilization and Conservation Service; and

(4) land not enrolled under another federal or state government program

whose purpose either conflicts with or substantially duplicates that of the RIM reserve program. However, any lands enrolled under another federal or state government program may become eligible for the RIM reserve program if they are released prior to conveyance of the conservation easement.

If the eligible land is a replacement wetland, the land is not eligible for enrollment into the RIM reserve program until one year after completion of the replacement. In addition, the applicant must be the same landowner who drained or filled the wetland that was subject to the Wetland Conservation Act and which was subsequently replaced on the applicant's property following a replacement plan that was approved by the responsible local unit of government.

Subp. 3. Permanent wetlands preserve program.

A. Land eligible for the permanent wetlands preserve program must be:

(1) land with a wetland that has been identified as a type 1, 2, 3 or 6 wetland as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition); or

(2) land with a wetland that, as of July 1, 1991, was subject to an easement agreement under Minnesota Statutes, section 103F.601, subdivision 1; and

(3) in an unincorporated area, at least five acres in size or a whole field as defined by the Agricultural Stabilization and Conservation Service; or

(4) in an incorporated area, at least 2-1/2 acres in size or a whole tax parcel as identified by the local assessor.

B. In addition, land eligible for the permanent wetlands preserve program must be all of the following:

(1) land that is not a site used to mitigate a wetland loss;

(2) land that has no more than four adjacent upland acres enrolled for each acre of wetland enrolled;

(3) land owned by the landowner or a parent or other blood relative of the landowner, for at least one year before the date of application; and

(4) land not enrolled under another federal or state government program whose purpose either conflicts with or substantially duplicates that of the permanent wetland preserves program, unless that land was subject to an easement agreement under Minnesota Statutes, section 103F.601, subdivision 1, as of July 1, 1991. However, any lands enrolled under another federal or state government program may become eligible for the permanent wetland preserves program if they are released prior to conveyance of the conservation easement.

Subp. 4. Minimum acreage requirements; permanent wetlands preserve program. A district board may limit the enrollment of upland adjacent to an eligible wetland to less than the maximum allowable four acres of adjacent upland for each acre of eligible wetland. A district board may waive the minimum acreage requirement for a landowner whose enrollment in the

permanent wetlands preserve program of a portion of the eligible wetland is dependent upon the collective enrollment of additional adjacent owners of the eligible wetland.

8400.3200 MAXIMUM ENROLLMENT.

The total land for which a landowner may receive compensation from the RIM reserve program may not exceed 20 percent of the average farm size in the county where the land is being enrolled. The average farm size must be based on the most recent United States Department of Agriculture Census of Agriculture. There is no acreage limitation for which a landowner may receive compensation for enrolling eligible land into the permanent wetlands preserve program.

8400.3210 DELEGATION OF PROGRAM TO ANOTHER DISTRICT.

A district board may enter into an agreement with other district boards as authorized by Minnesota Statutes, chapter 103C.231, to delegate to another district board the responsibility for administering any conservation easement program of the state board. Where such delegation has been mutually agreed upon, each district board must so notify all landowners in their respective district and each district must so notify the state board.

8400.3230 APPLICATION BY LANDOWNERS.

Landowners interested in participating in a conservation easement program must submit an application to the appropriate district office, during the application period established by the district board, and on forms provided by the state board. The landowner must complete the application in its entirety along with any supportive information required for proper consideration of the application.

The district board shall direct its staff or the district technical representative to make an initial determination of conservation easement eligibility at the time of application. Providing proof of eligibility is the responsibility of the landowner. The district technical representative shall develop a cost estimate for the conservation easement and approved practices for all eligible applications.

8400.3260 LAND IN MORE THAN ONE DISTRICT.

If an application involves land in more than one district, the participating districts may jointly delegate to one of the districts the responsibility for review and prioritization of that application. If that application is accepted for enrollment, the affected districts may also jointly delegate to one of the districts the responsibility for completing all of the tasks necessary for conveyance of the conservation easement to the state board.

8400.3300 CRITERIA FOR SCREENING COMMITTEE REVIEW OF APPLICATIONS.

Upon completion of the application period and initial eligibility determination by the responsible district staff or the district technical representative, the screening committee may confer and prioritize each eligible application. The criteria for screening committee prioritization are as follows:

A. consistency with the purpose and policy of the respective conservation easement program for which an application has been submitted by an eligible landowner;

B. the parcel's relationship to the priorities previously determined in part 8400.3130;

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

D. potential title problems and encumbrances;

E. compatibility with established priorities of the organizations and agencies represented on the screening committee; and

F. highest priority must be given to permanent easements pursuant to Minnesota Statutes, section 103F.515, subdivision 2(f).

8400.3330 CRITERIA FOR DISTRICT BOARD REVIEW.

The district board shall meet and review the applications after considering screening committee priorities. Criteria for district board review are as follows:

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

B. compatibility with district plans and priorities; and

C. availability of funds.

8400.3360 DISTRICT ACTION ON APPLICATIONS.

Upon completion of district board review of the applications, the district board shall take one of the following actions for each application:

A. the application is approved and submitted to the state board for funding consideration;

B. the application is retained by the district board for further investigation; or

C. the application is denied because the land or landowner is deemed to be ineligible or because the land is not of sufficient priority as related to the criteria listed in part 8400.3300.

The district board shall notify all applicants in writing of their application status within 60 days after the end of the application period.

8400.3390 EASEMENT ACQUISITION PROCEDURES.

Upon completion of district board review of the eligible applications, applications approved

for further processing must follow the administrative guidelines and procedures described in the current edition of the Conservation Easement Handbook. This state board publication is subject to periodic change, is available at the state board office and at district offices, and is incorporated herein by reference.

8400.3400 CONSERVATION AGREEMENT FOR EASEMENT.

The district board shall direct its staff or the district technical representative to develop conservation agreements as prescribed by the state board and in a recordable form for all approved applications which incorporate the minimum requirements stated in Minnesota Statutes, section 103F.515, subdivisions 4 and 5. In addition, each conservation agreement must require the landowner to:

- A. pay, when due, all taxes and assessments that may be levied against the easement area;
- B. remove any existing structures as required by the district board or the state board prior to the conveyance of the conservation easement with all associated costs being the responsibility of the landowner, and not place, erect, or construct any temporary or permanent structures on the easement area;
- C. remove any existing hazardous and toxic substances or any pollutants and contaminants prior to the conveyance of the conservation easement with all associated costs being the responsibility of the landowner, and not place such substances, pollutants or contaminants on the easement area;
- D. properly seal all abandoned wells on the easement area prior to the conveyance of the conservation easement, with all associated costs being the responsibility of the landowner; and
- E. allow the state board and its employees and agents to enter the easement area for the purposes of inspection and enforcement of the terms and conditions of the conservation easement.

8400.3460 TITLE REQUIREMENTS.

The landowner must have good and marketable title that is insurable under a title insurance policy. In addition, the title must not be subject to any prior liens or encumbrances determined to be objectionable by the Attorney General. Objectionable title defects, liens, or encumbrances must be promptly removed or corrected by the landowner prior to easement conveyance.

8400.3500 EASEMENT CONVEYANCE.

The conservation easement is conveyed after the conservation easement has been recorded and title has been accepted by the state.

8400.3530 EASEMENT PAYMENT RATES.

Subpart 1. **RIM reserve program.** The state board shall annually establish statewide easement payment rates on the following payment basis: (1) township average assessed market value of agricultural lands, or (2) actual assessed market value of agricultural lands, as authorized by Minnesota Statutes, section 103F.515, subdivision 6, paragraph (a), clause (5), and paragraph (b). Easement payments shall be made as follows:

A. for perpetual easements on lands with crop history, payment must not exceed 90 percent of the established payment basis;

B. for perpetual easements on lands without crop history, payment must not exceed 60 percent of the established payment basis;

C. for limited duration easements on lands with crop history, payment must not exceed 75 percent of the established payment basis; and

D. for limited duration easements on lands without crop history, payment must not exceed 45 percent of the established payment basis.

Subp. 2. **Permanent wetlands preserve program.** Easement payments shall be made on a payment basis as authorized by Minnesota Statutes, section 103F.516, subdivision 3. Easement payments shall be made at the following rates:

A. for wetlands in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington that are:

(1) farmed wetlands on agricultural land with crop history, 90 percent of the payment basis;

(2) wetlands on agricultural land, 50 percent of the payment basis; or

(3) wetlands on nonagricultural land, 20 percent of the payment basis;

B. for wetlands in all other counties that are:

(1) farmed wetlands on agricultural land with crop history, 90 percent of the payment basis; or

(2) wetlands on agricultural or nonagricultural land, 50 percent of the payment basis;

C. for adjacent upland:

(1) with crop history, 90 percent of the payment basis; or

(2) without crop history, 60 percent of the payment basis.

Subp. 2a. **Noncompensable items.** In any computation of payments under subpart 1 or 2, the state board shall not compensate for any of the following:

A. the value of any buildings or other structures that must be removed as required by the district board or the state board from the easement area; or

B. the land area occupied by any public surface drainage system, or public waters, or public waters wetlands; however, the state board may compensate for such land if it is:

(1) previously or currently enrolled in the state waterbank program pursuant to Minnesota Statutes, section 103F.601;

(2) authorized by part 8400.3160, subpart 2, which describes eligible land for the permanent wetlands preserve program;

(3) an eligible restorable drained wetland that will be restored upon enrollment in the RIM reserve program; or

(4) an eligible replacement wetland that will be enrolled in the RIM reserve program.

Subp. 3. [Repealed 10-1-94]

Subp. 4. [Repealed 10-1-94]

8400.3560 PAYMENT SCHEDULE.

Payments shall be made by the state board as prescribed by the conservation agreement. Payments may be assigned by the landowner.

Payments for conservation easements will be a one time lump sum amount unless the landowner requests a split payment of ten equal annual installments for which no interest is paid.

8400.3600 RENEWAL AND EXTENSION OF CONSERVATION EASEMENTS.

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

B. The easement duration may be lengthened through mutual agreement of the current landowner with the state board, in consultation with the commissioners of agriculture and natural resources, if the state board determines that the changes are consistent with the purpose of the conservation easement program. When converting limited duration easements to permanent easements, the payment is the difference between the amount that would be paid per acre for the permanent easement as established for the most recent sign-up period and the amount already paid

for the limited duration easement on the area.

8400.3610 ALTERATION, RELEASE, OR TERMINATION OF CONSERVATION EASEMENTS.

The state board may alter, release, or terminate a conservation easement after consultation with the commissioners of agriculture and natural resources. The board may alter, release or terminate an easement only if the state board determines that the public interests and general welfare are better served by the alteration, release, or termination.

The state board must be provided the following information at least 30 days prior to a state board meeting, before the state board will consider a request to alter, release, or terminate a conservation easement:

- A. a copy of the letter from the landowner to the district board justifying the change and identifying how the public interest and general welfare will be better served;
- B. a letter from the district board recommending either approval or disapproval of the proposed change;
- C. a letter from the Department of Natural Resources area wildlife manager recommending either approval or disapproval of the proposed change; and
- D. other supporting documents, including:
 - 1. an aerial photo identifying the requested change;
 - 2. a soil survey map of the area;
 - 3. cropping history information; and
 - 4. other pertinent documentation that will support the request.

The state board reserves the right to require special provisions to ensure at least equal resource value as a condition of approving the request. The state board must be compensated by the landowner for all damages and loss of benefits to the conservation easement and the state board may also require reimbursement for administrative expenses and costs incurred in the alteration, release, or termination of a conservation easement.

8400.3630 APPROVED PRACTICES.

Subpart 1. **Criteria.** Approved practices must have as their primary purpose the control of soil erosion or sedimentation, protection or improvement of water quality, or enhancement of fish and wildlife habitat. Approved practices are further specified in the easement program practice specifications. Practices that do not qualify as approved practices include, but are not limited to, Christmas tree plantations and fruit orchards. Food plots are not eligible for conservation easement program cost-sharing, but are considered an approved practice and, therefore, are allowed on enrolled acres if they are included in the conservation plan.

Subp. 2. **Establishment of approved practices.** A landowner is responsible for the establishment of all approved practices on the easement area in accordance with the easement program practice specifications. Establishment of approved practices must be monitored by the district board to ensure compliance with the conservation plan and the conservation easement. Upon establishment or partial completion of an approved practice, a district technical representative shall certify whether or not the approved practice, in whole or part, has been satisfactorily performed.

8400.3700 COST-SHARED PRACTICES.

Subpart 1. **Approved practices eligible for cost-sharing.** The state board shall determine which approved practices are eligible for conservation easement program cost-sharing, consistent with the criteria as described in part 8400.3630, subpart 1, and consistent with the payment limits in Minnesota Statutes, section 103F.515, subdivision 6, paragraph (a), clauses (1) and (2).

Subp. 2. Eligible costs for cost-shared practices.

A. Upon satisfactory performance under part 8400.3630, subpart 2, the landowner shall present receipts or invoices to the district board of the costs incurred in the installation of the cost-shared practice. The district board shall review the receipts or invoices to determine the costs eligible for conservation easement program payment. If the district board determines that the costs requested for reimbursement are reasonable and necessary, it shall recommend payment to the landowner by submitting certification of satisfactory performance and providing documentation of reimbursable practice costs to the state board on forms provided by the state board. If the district board determines that certain costs requested for reimbursement are not eligible or reasonable, it shall notify the landowner in writing of this determination. The landowner may request reconsideration of this determination by the district board within 30 days of receipt of the determination. If additional costs are determined to be eligible and reasonable, the district board shall then recommend payment for the approved amount. The state board reserves the right to approve whether costs requested for reimbursement are eligible and reasonable.

B. Eligible costs for approved practices are limited to those prescribed by Minnesota Statutes, section 103F.515, subdivision 6, paragraph (a), clauses (1) and (2), and to the total state funds encumbered for the cost-shared practices designated in the conservation plan. The amount of encumbered funds may be increased, within the statutory limits, after a landowner request, which has been properly executed on forms prescribed by the state board, has been approved by the state board.

C. If the actual cost of installing a cost-shared practice designated in the conservation plan is less than the statutory payment limit described in item B, the state shall only pay the actual cost of the installation.

Subp. 3. **Payment for in-kind services.** In-kind services provided by the landowner including, but not limited to, earthwork, seedbed preparation, and seeding, may be credited to the landowner's share of the total cost of establishing the cost-shared practice. The district board shall credit only those costs it determines to be practical and reasonable.

Subp. 4. **Funds from other sources.** Conservation easement program cost-sharing funds

may be augmented by funds from other agencies, organizations, or individuals. Securing these funds is the responsibility of the landowner.

8400.3730 FAILURE OF APPROVED PRACTICES.

Subpart 1. **Cost-shared practices.** A landowner is not in violation of the conservation easement if the failure, in whole or part, of a cost-shared practice was caused by reasons beyond the landowner's control such as extreme weather conditions. In these instances, the district board may recommend to the state board that conservation easement program cost-sharing funds be encumbered for reestablishment of the cost-shared practice. The encumbrance must comply with the limits in Minnesota Statutes, section 103F.515, subdivision 6, paragraph (a), clauses (1) and (2). In no case may a district board authorize conservation easement program financial assistance to a landowner for the reestablishment of cost-shared practices that were removed or altered by the landowner, or that have failed due to improper maintenance during the term of the conservation easement.

Subp. 2. **All other approved practices.** A landowner is not in violation of the conservation easement if the failure of approved practices was caused by reasons beyond the landowner's control.

8400.3800 OPERATION AND MAINTENANCE.

A landowner is responsible for the operation and maintenance of approved practices designated in the conservation plan.

8400.3830 VIOLATIONS AND ENFORCEMENT.

Subpart 1. **District board action.** The district board may take such measures as are necessary to ensure landowner compliance with the provisions of the conservation agreement, conservation easement, and conservation plan. If the district board is unsuccessful at obtaining landowner compliance, the district board shall notify the state board of the violation and may recommend appropriate measures to be taken to correct violations.

Subp. 2. **State board action.** Upon notification by the district board of a violation of a conservation agreement, conservation easement, or conservation plan, the state board shall take action to resolve the violation.

A landowner who violates the terms of a conservation agreement, conservation easement, or conservation plan under this chapter, or induces, assists, or allows another to do so, is liable to the state for treble damages if the violation is willful or double damages if the violation is not willful. The amount of damages is the amount needed to make the state whole or the amount the landowner has gained due to the violation, whichever is greater.

If the state board is not successful in resolving the violation, it may request the state attorney general to commence legal action to enforce the provisions of the conservation agreement, conservation easement, or conservation plan.

Subp. 3. **Attorney general action.** Upon request by the state board, the attorney general

may commence an action for specific performances, injunctive relief, damages, including attorney fees, and any other appropriate relief to enforce Minnesota Statutes, sections 103F.501 to 103F.531 in district court in the county where all or part of the violation is alleged to have been committed, or where the landowner resides or has a principal place of business.

Conservation easements remain in effect even if maintenance violations have occurred.

8400.3870 SUPPLEMENTAL PAYMENTS ON FEDERAL AND STATE PROGRAMS.

The state board may supplement payments made under federal or other state land retirement programs to the extent of available appropriations other than bond proceeds. The payments must be used to establish perennial cover on land or to supplement payments for land enrolled in land retirement programs approved by the state board.

8400.3930 RECONSIDERATION AND REVIEW.

Subpart 1. Reconsideration by district board. An affected landowner may request the district board to reconsider its:

- A. recommendation or determination regarding that landowner's application for enrollment in a conservation easement program;
- B. recommendation or determination to cancel that landowner's conservation agreement;
- C. determination regarding that landowner's eligible and allowable costs to be reimbursed by the state board;
- D. request to that landowner to correct any alleged noncompliant conditions regarding that landowner's enrolled easement area; or
- E. recommendation to disapprove that landowner's request to change an enrolled easement area.

Subp. 2. Time for reconsideration by district board. A landowner requesting reconsideration under subpart 1 shall mail a written request to the district board within 15 days of receipt of notice of the district board's determination or recommendation of the matters specified in subpart 1. The request for reconsideration shall include specific reasons for the request and evidence to support the landowner's claims. The district board shall notify the landowner in writing of its final recommendation and the reasons for the recommendation within 60 days of receipt of the landowner's request for reconsideration.

Subp. 3. Appeal to state board. An affected landowner may appeal to the state board from a final recommendation made by the district board pursuant to subpart 2. The landowner shall mail a written appeal to the state board within 15 days after receipt of the district board's final recommendation. The appeal shall include the specific reasons for the request and evidence to support the landowner's claims. The state board shall notify in writing the landowner and the district board of its final decision and the reasons for the decision within 60 days of receipt of the

landowner's appeal.



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File and permanently retain under Program Correspondance
found in Handbook One.

M E M O R A N D U M

April 7, 1993

TO: Soil & Water Conservation Districts

FROM: Marybeth Block, Easement Programs Coordinator *MBB*

RE: Waiver of CRP Refunds involving RIM Reserve & PWP

Mr. Donald Friedrich, State ASCS Executive Director, has recently mailed the attached memorandum to all county ASCS offices. I am providing you with a copy of the same memorandum for your information.

As the attached memorandum explains, any landowner that enrolls CRP contract lands into either the RIM Reserve or the Permanent Wetland Preserve Programs under perpetual easements will no longer be required to repay ASCS for any annual contract payments received nor will any landowner be required to pay any additional penalty for "early termination" of those CRP contracts.

This change in state ASCS policy now offers those landowners a timely option to consider for resource protection. That is, those landowners will no longer be required to wait for the expiration of their existing CRP contract before making extended or other long-term decisions on those acres. This new option will allow landowners to simply cancel their current CRP contract (regardless of how long the lands have been enrolled in CRP) IF they will enroll those contract lands into either the RIM Reserve or the Permanent Wetland Preserve Programs. However, this option only applies if the landowner is willing to convey a perpetual easement; this option is not available for limited duration easements.

Additional detailed information and administrative procedures will be addressed in the revised easement processing handbook. However, it is important that you, and the landowners that you assist, are all aware of this new ASCS policy and that it applies statewide. This information should be useful to all of you as you discuss potential easement applications with landowners between now and future easement program application deadlines.

If your staff should have any questions about this new policy, please direct your questions to your local ASCS staff.

One final note. You should also be aware that BWSR has formally requested ASCS to broaden the use of this new waiver policy to include federal Water Bank Program contracts in addition to CRP contracts. BWSR has not yet received any determination from ASCS on this new request. I will notify each of your offices upon receiving ASCS' decision.

cc: BWSR Board members and staff
D'Wayne DeZiel, MASWCD Executive Director
Greg Anderson, ASCS State Office

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Minnesota State ASCS Office
400 Farm Credit Services Building
375 Jackson Street
St. Paul, MN 55101-1852

RECEIVED

MAR 22 1993

Date: March 19, 1993

COPY

To : All County Offices
District Directors

From : Donald L. Friedrich
State Executive Director

Subject : WAIVER OF CRP REFUNDS INVOLVING RIM AND PWP

Background

The State of Minnesota Board of Water and Soil Resources (BWSR) administers two perpetual conservation easement programs titled:

- Reinvest In Minnesota Reserve (RIM)
- Permanent Wetland Preserve Program (PWP)

Some producers are requesting to convert their existing CRP acreage to either the RIM or PWP program and NOT be required to refund past CRP payments.

Purpose

The purpose of this memo is to provide you with DASCO's decision in this matter.

**DASCO
Waiver**

Attached are August 21, 1992 and October 27, 1992, memos we have obtained from DASCO which will allow a waiver of refund for ALL CRP participants who transfer land from CRP to either RIM or PWP provided:

- a perpetual easement is placed on the CRP land by either RIM or PWP, and
 - the cover is maintained for its established lifespan.
-

Page 2
March 19, 1993

**COF
Action**

Cancel CRP-1 contracts which transfer to either RIM or PWP according to Paragraph 291 of 1-CRP (Rev. 1), CANCELING CONTRACT IN THE PUBLIC'S INTEREST.

Note: In cases where only part of the CRP-1 acreage is transferred County Offices shall first initiate revised contracts for the acreage being transferred and the acreage remaining in CRP. The revised contract which is being transferred to RIM or PWP can then be canceled according to Paragraph 291 of 1-CRP (Rev. 1).

**Water Bank
Waiver**

BWSR has also requested ASCS extend this CRP waiver provision to the Water Bank Program. This request has been forwarded to DASCO. County Offices and District Directors will be informed of DASCO's decision once it is received.

GCA:bc

Attachments

cc: Dave Behm, BWSR
Gary Nordstrom, SCS



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M E M O R A N D U M

April 20, 1993

TO: Soil & Water Conservation Districts

FROM: Marybeth Block, Easement Programs Coordinator

RE: Waiver of federal Water Bank Program Refunds involving
Permanent Wetlands Preserve or RIM Reserve Enrollments

Mr. Donald Friedrich, State ASCS Executive Director, has recently mailed the attached memorandum to all county ASCS offices. I am providing you with a copy of the same memorandum for your information.

As the attached memorandum explains, any landowner that enrolls WBP contract lands into either the Permanent Wetland Preserve (PWP) or the RIM Reserve Programs under perpetual easements will no longer be required to repay ASCS for any annual contract payments received nor will any landowner be required to pay any additional penalty for "early termination" of those WBP contracts. Due to eligibility criteria of these three programs, it is most likely that any "conversion" from WBP to a perpetual easement would be done via the PWP Program, assuming the wetland under WBP contract is an eligible wetland type for PWP.

This change in state ASCS policy now offers those landowners a timely option to consider for resource protection. That is, those landowners will no longer be required to wait for the expiration of their existing WBP contract before making extended or other long-term decisions on those acres. This new option will allow landowners to simply cancel their current WBP contract (regardless of how long the lands have been enrolled in WBP) IF they will enroll those contract lands into either the PWP or the RIM Reserve Program. However, this option only applies if the landowner is willing to convey a perpetual easement; this option is not available for limited duration easements.

Additional detailed information and administrative procedures may be forthcoming. However, it is important that you, and the landowners that you assist, are all aware of this new ASCS policy and that it applies statewide. This information should be useful to all of you as you discuss potential easement applications with landowners between now and future easement program application deadlines.

If your staff should have any questions about this new policy, please direct your questions to your local ASCS staff.

cc: BWSR Board members and staff
D'Wayne DeZiel, MASWCD Executive Director
Greg Anderson, ASCS State Office

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Agricultural
Stabilization and
Conservation Service

Minnesota State ASCS Office
400 Farm Credit Services Building
375 Jackson Street
St. Paul, MN 55101-1852

To : All Water Bank County Offices
District Directors

Date: April 12, 1993

From : Donald L. Friedrich *Don L. Friedrich*
State Executive Director

Subject : WAIVER OF WBP REFUNDS INVOLVING RIM AND PWP

Background

The State of Minnesota Board of Water and Soil Resources (BWSR) administers two perpetual conservation easement programs titled:

- Reinvest In Minnesota Reserve (RIM)
- Permanent Wetland Preserve Program (PWP)

Some producers are requesting to convert their existing Water Bank (WBP) acreage to either the RIM or PWP program and NOT be required to refund past WBP payments.

Purpose

The purpose of this memo is to provide you with DASCO's decision in this matter.

**DASCO
Waiver**

Attached is DASCO's April 9, 1993, which will allow a waiver of refund for ALL WBP participants who transfer land from WBP to either RIM or PWP provided:

- a perpetual easement is placed on the WBP land by either RIM or PWP, and
 - the cover is maintained for its established lifespan.
-

Page 2
April 12, 1993

COF
Action

Terminate ASCS-692 agreements which transfer to either RIM or PWP according to Section 5 of 1-CONSV.

Note: In cases where only part of the agreement will transfer, make certain the remaining WBP acreage meets the minimum acreage requirements. If it does not, then terminate the entire WBP agreement according to procedure contained in this memo.

GCA:pjs
Attachments

cc: Dave Behm, BWSR
Gary Nordstrom, SCS