

STATE OF MINNESOTA

BOARD OF WATER AND SOIL RESOURCES

In the Matter of the Proposed Rules
of the Board of Water and Soil Resources
Governing the Reinvest in
Minnesota (RIM) Reserve Program

Minnesota Rules 8400.3000 - 8400.3930

STATEMENT OF NEED AND REASONABLENESS

I. General Need and Authority for Rules 8400.3000

Minnesota Statutes, sections 40.40 et. seq. and 84.95 authorize the Board of Water and Soil Resources in cooperation with the soil and water conservation districts, state and local private groups, and state and federal agencies, to implement a program of retiring certain agricultural land from crop production and establishing on that land permanent vegetative cover, restoring altered wetlands, or establishing windbreaks adjacent to highways or enhancing and protecting other private lands. Minnesota Statutes, section 40.45 authorize the board to adopt rules to implement this program. Minnesota Rules parts 8400.3000 to 8400.3930 provide procedures and criteria to be followed by the Board of Water and Soil Resources, and soil and water conservation district boards in implementing Minnesota Statutes, section 40.40 et. seq.

The proposed revisions insure that:

1. Legislative, administrative and technical changes required by the 1989 amendments to the RIM Law are incorporated; and
2. Local program administrators, cooperating agencies and applicants are provided with clear guidance concerning enrollment requirements and administrative procedures for the RIM Reserve program.

II. Small Business Impact. This is strictly a voluntary program and will not have a negative impact on small business.

III. Need and Reasonableness of each Rule Part Revised

A. The following revisions are required due to the change of program authority from the Commissioner of Agriculture to the Board.

8400.3030 Subp.8; Subp. 9; (this relates to Subp. 3) Subp. 37; Subp. 41;
8400.3060 (commissioner to board)
8400.3230 (except B)
8400.3400 B; F; G; H; K (commissioner to board); O; and final sentence.
8400.3430 B; C; D; E
8400.3460
8400.3500
8400.3530 (commissioner to board)
8400.3600
8400.3610
8400.3630
8400.3700 A. (commissioner to board); D
8400.3730
8400.3830 (first sentence)
8400.3860
8400.3900
8400.3930 Subp. 4.

B. The following additional revisions have been made:

8400.3030 Definitions

Subp. 3 and Subp. 17a - The 1989 legislative amendments made this definition change. This reflects the legislation.

Subp. 6a - The new term "authorized farm partnership" is included to clarify its addition to the definition of landowner in Subp. 31.

Subp. 7 and Subp. 33 - MN Statutes, section 41B.039 was amended in 1989 to eliminate references to the RIM program, therefore the references to the beginning farmer program have been dropped.

Subp. 20a - The new term "Family farm partnership" is included to clarify its addition to the definition of landowner in Subp. 31.

Subp. 31 - This addition reflects the amendment made in 1989 legislative session.

Subp. 33 - All references to the RIM Reserve program responsibilities to the state beginning farmer program were eliminated by the 1989 legislature. Therefore, the beginning farmer program references have been omitted from this rule.

Subp. 33a and Subp. 33b - These two definitions are included to clarify the types of land eligible for the new pastured hillside category described in 8400.3160(I).

Subp. 39a - This definition is needed to explain and clarify Subp. 42.

Subp. 40 - Use of the word drained rather than altered is required due to the legislative definition in Subp. 17a of drained wetland.

Subp. 42 - This is required due to new section in law.

Subp. 42a - This definition is included to clarify the new eligibility category described in 8400.3160 (F).

Subp. 47 - The definition for state board is now included in Subp. 8.

8400.3060(C) Criteria For Allocation of Funds

This change is needed to clarify that this section relates to drained wetlands only.

The additional language in the later part of this section clarifies that if funds are to be manipulated, only the board will have the authority to do this.

8400.3100 - This addition is required due to the new section in the law.

8400.3110 - This change is required by the 1989 RIM law amendments.

8400.3130(A) Priority Setting

Due to the new eligibility categories added in the 1989 legislative session, it is necessary for the board to establish the priorities due to the limited funds available. The board will be allocating the RIM funds based on these priorities.

8400.3160 (all except 4) - These changes have been made to make the rule consistent with the requirement of the 1989 amendments to the RIM law.

8400.3160(4) Criteria For Eligible Land

This additional limitation is required to protect rural buildings from the potential fire hazard of large fields of vegetation. This limit reflects an agreement the board has developed with rural insurance companies.

8400.3200 - This change has been made to make the rule consistent with the 1989 amendment to the RIM law.

8400.3230(B) - This change has been made to make the rule consistent with the 1989 amendments to the RIM law.

8400.3400(C) - These changes reflect the revised definition of drained wetland in the RIM law and clarifies the provisions of the new eligibility category described in Subparts 33a and 33b.

8400.3400(D) Application By Landowners

The addition of pasture is consistent with the limits imposed on cropland to restrict the landowner from enrolling a parcel only to shift the problem to another parcel not now pastured. This does allow the shift if the new pasture is managed according to an approved conservation plan.

8400.3400(H) - This is made to make the rule consistent with the 1989 amendment to the RIM law.

8400.3400(K) - This is a provision of the easement that allows the state to track new owners of RIM acres. Presently being administered this way.

8400.3430(A) Procedures For Review of Conservation Agreement

This additional word clarifies the level of board review to field level. The program is presently being administered this way.

8400.3530 Payment Rates

The payment rate for non-cropland acres must be established. This allows the board to set these rates based on the best available information. Assistance in this process is provided by Department of Revenue, State Planning and the University of Minnesota.

8400.3610 - This addition is required due to an 1989 amendment in the RIM Reserve law allowing alteration, release or termination of easements. This section sets forth the criteria and steps for this action to take place. Coordination with the commissioners of agriculture and natural resources is required in order to provide guidance.

8400.3700(A) Establishment of Approved Practices

The language at the end of this segment allows the board to deny unnecessary reimbursement claims that is inconsistent with the approved and legal cost sharable items established by the board and state law.

8400.3830 - This addition is required due to a 1989 amendment in the RIM law and reflects the language found in the law.

Repealer - All repealers reflect 1989 amendments made in the RIM law or the beginning farmer program law and are therefore consistent with existing statutory requirements.

WAE:lb

cc: Jim Birkholz, Pat Bloomgren, Carol Milligan