

# Agriculture Article

## Title 8. Soil Conservation

### Subtitle 7. Cost Sharing—Water Pollution Control

#### § 8-701. Definitions

- (a) *In general.* - In this subtitle the following words have the meanings indicated.
- (b) *Best management practice.* - "Best management practice" means a conservation or pollution control practice that manages soil loss due to farming practices or manages nutrients, animal wastes, or agricultural chemicals so as to minimize movement into the surface waters of the State.
- (c) *Eligible cost.* - "Eligible cost" means a capital expenditure for installing, purchasing, or constructing a best management practice. It does not include the cost of land or interests in land, or the costs of operating or maintaining best management practices.
- (d) *Person.* - "Person" means an individual, partnership, corporation, trust, or other business enterprise which as an owner, landlord, or tenant, participates in the operation of a farm.
- (e) *Pooling agreement.* - "Pooling agreement" means a written agreement between persons, approved by the Secretary of Agriculture, to perform best management practices and which is intended to solve a mutual pollution problem on different farms.
- (f) *Project.* - "Project" means a project to prevent or control agriculturally related nonpoint source water pollution by establishing best management practices on a farm.

#### § 8-702. Establishment of program; implementation with other programs.

- (a) *Legislative finding and declaration; program established.* - The General Assembly finds and declares that agriculturally related nonpoint sources of water pollution may potentially contribute to the degradation of the water resources of this State and that prevention and control efforts have been hampered because of the cost and lack of income producing potential in many agricultural practices designed to protect water quality. To assist in the implementation of agricultural practices which minimize water pollution from erosion, animal wastes, nutrients, and agricultural chemicals, a cost sharing program between the State and eligible applicants is established for the public benefit.
- (b) *Implementation in conjunction with other programs.* - The cost sharing program established under this subtitle shall be implemented in conjunction with the "Agricultural Water Quality Management Program for the Control of Sediment and Animal Wastes" of the State Soil Conservation Committee as well as other State and local programs to control water pollution.

**§ 8-703. Rules and regulations; selection of project; financial and technical assistance.**

- (a) *Rules and regulations of Secretary of Agriculture and Secretary of the Environment.* - The Secretaries of Agriculture and the Environment shall, by jointly promulgated rule or regulation:
- (1) Identify geographic areas in watersheds throughout the State which have a high potential for agriculturally related soil erosion or movement of sediments, animal wastes, or agricultural chemicals into the surface waters of the State;
  - (2) Designate priority areas for cost sharing under this subtitle; and
  - (3) Establish program requirements, including application procedures, eligibility criteria, provisions for monitoring and review, and measures to assure accountability for all cost sharing funds.
- (b) *Bases of selection of projects; degree of assistance; reestablishment of deteriorated practices.*
- (1) The selection of projects and the degree of State financial assistance shall be based on:
    - (i) Water quality improvements to be achieved, with consideration given to the cumulative effect of other projects on the same body of water;
    - (ii) The estimated economic benefit to the participating farmer from use of the best management practice; and
    - (iii) Other relevant factors as determined by regulation.
  - (2) State cost sharing funds may not be used to reestablish agricultural practices which have deteriorated due to the negligence or mismanagement of an applicant.
- (c) *Technical assistance by the soil conservation district.* - The Secretary of Agriculture and the Secretary of the Environment shall implement the cost sharing program for a project with the technical assistance of the appropriate soil conservation district. Technical representatives of the soil conservation district shall prepare or approve all design, construction, maintenance or other plans for best management practices and shall provide the necessary degree of layout and construction supervision.

**§ 8-704. State cost sharing.**

- (a) *Amount; projects for which available; preconditions for agreement; assignment of agreement; recording memorandum of understanding of agreement.*
- (1) State cost sharing in any project may be made available for up to 87 1/2 percent of eligible costs, not to exceed a dollar amount of up to \$75,000 as determined by a regulation adopted jointly by the Secretary of Agriculture and the Secretary of the Environment.
  - (2) State cost sharing funds may be made available for any project if:
    - (i) The Department of Agriculture, the soil conservation district, and a person have executed an agreement which, among other things, obligates the person to establish, construct, or install the best management practice in accordance with technical specifications, to maintain the best management practice for its expected life span, and to provide the required matching funds for the project;
    - (ii) The Board of Public Works has given approval to the project when the proceeds of State bonds are to be used to finance the State share; and
    - (iii) The soil conservation district has certified to the Department that the project meets all applicable technical standards, and that all submitted invoices properly represent eligible costs.
  - (3)
    - (i)
      1. Except as authorized under sub-subparagraph 2 of this agreement with a farm tenant, it shall obtain the consent of the landlord to the terms and conditions of the agreement.
      2. The Department may execute the agreement without the consent of the landlord if:
        - A. The agreement concerns a short-term project that involves only the planting of a cover crop; and
        - B. The Department has sent by first-class mail written notice of a cover crop project to the landlord at least 10 calendar days before executing the agreement for the first cover crop project during the term of the lease.
    - (ii) The Department may also require the granting to the State of an appropriate security interest in any equipment, structures or similar items purchased with State moneys.

- (4) A cost sharing agreement executed as required under this subtitle may be assigned and transferred to a successor in title of all or part of a tract of land subject to a best management practice.
- (b) *Disbursement of funds.* - State cost sharing funds shall be disbursed, upon warrant of the Comptroller, only after the Department has determined that the best management practice has been established or in the case of equipment, structures, or similar items, that it has been received and properly installed. Payment may be made either to the person when the person has advanced money, or directly to a vendor or contractor in accordance with the written agreement required by this section, or supplemental written agreements with the vendor or contractor.
- (c) *Rules and regulations; agreements to assist in administration.*
  - (1) The Secretary of Agriculture and the Secretary of the Environment shall jointly promulgate rules and regulations to implement this subtitle. However, rules and regulations solely involving internal management of the cost sharing program need only be promulgated by the Secretary of Agriculture. The Department of Natural Resources shall be consulted prior to any rule making effort to assure coordination with its sediment control and related watershed programs.
  - (2) All rules and regulations promulgated under this section shall be approved by the Board of Public Works prior to the use of the proceeds of State bonds in the cost sharing program.
  - (3) The Department of Agriculture and the Department of the Environment may enter into agreements with appropriate federal and local governmental entities to assist in administering this subtitle

**§ 8-705. Failure to establish and maintain best management practice.**

- (a) Failure by a person to establish, install, construct, or maintain a best management practice in accordance with the agreement required to be executed with the Department of Agriculture under Section 8-704 of this subtitle shall render the person liable for the full amount of State cost sharing funds paid for practices that are not implemented or maintained. However, a person may not be found liable for inadequate maintenance or destruction of a best management practice if it were caused by an act of nature that could not reasonably be anticipated by the person.
- (b) The Attorney General, at the request of the Secretary of Agriculture may institute appropriate legal action to enforce the terms and conditions of all cost sharing agreements executed under this subtitle.