

901:13-1-14

Agricultural pollution abatement cost sharing.

~~Cost share monies from the state~~The department may be available to assist landowners in installing needed best management practices which abate ~~animal manure pollution~~, soil erosion or degradation of the waters of the state by residual farm products, manure, or soil sediment, including pollutants attached thereto. ~~Best management practices specified as eligible for cost sharing must require expenditures that are likely to exceed the economic returns to the owner or operator.~~

(A) The department may offer to share the cost of establishing eligible best management practices up to thirty thousand dollars per person per year. If other public funds are involved in cost sharing to establish an eligible best management practice or practices, state funds can be used only to the extent that the combined public funds amount to no more than seventy-five per cent of the cost of establishing the best management practice or practices, or not more than thirty thousand dollars per person per year, whichever is smaller. The maximum of thirty thousand dollars of public funds per person per year limit may be waived by majority vote of the Ohio soil and water conservation commission.

(1) Eligible practices include but are not limited to:

- (a) Animal manure storage and treatment systems;
- (b) Settling basins and filter strips;
- (c) Critical area seeding and fencing;
- (d) Off stream watering and stream crossing stabilization;
- (e) Roofing and gutters;
- (f) Water diversions;
- (g) Grass waterways;
- (h) Water and sediment control basins;
- (i) Erosion control structures;
- (j) Wetland treatment facilities;
- (k) Composting facilities;
- (l) Access roads;

- (m) Heavy use protection pad;
 - (n) Drainage water management structures; and
 - (o) Other practices as approved by the Ohio soil and water conservation commission.
- (2) Restrictions on use of cost share funds include:
- (a) Cost sharing shall be available for previously installed eligible practices which have lost their effectiveness through natural causes. However, cost sharing will not be available for previously installed eligible practices which have lost their effectiveness due to operator negligence or mismanagement. Eligible practices which, through natural causes, have lost their effectiveness, shall qualify for further financial assistance. However, cost share monies will not be awarded to reestablish previously installed practices which have deteriorated due to operator negligence or mismanagement.
 - (b) Surface mined lands and oil and gas well drilling areas must have been reclaimed and currently used ~~be in active~~ agricultural production ~~uses~~ as determined by the director or the director's designee in order to be eligible for cost sharing on needed conservation practices.
 - (c) The director or the director's designee may only use cost share funds for those practices necessary to control agricultural pollution. Eligibility consists of those pollution control practices needed to directly control animal manure discharges and/or soil erosion exceeding permissible soil loss ~~"T"~~ in order to meet standards outlined in this Chapter ~~in rules 901:13-1-02 to 901:13-1-13 of the Administrative Code.~~
 - (d) ~~Cost share funds will be available only to owners and operators with a current operation and management plan.~~
 - (d) Eligible best management practices for cost sharing must require expenditures that are likely to exceed the economic returns to the owner or operator.
 - (e) All practices must meet the standards and specifications listed in the field office technical guide, or other methods approved by the director or the director's designee.
- (3) The director, subject to approval of the Ohio soil and water conservation commission, shall determine best management practices eligible for cost

sharing, percentage rates of cost sharing for each best management practice and the maximum amount of cost sharing for each best management practice up to a maximum of thirty thousand dollars. ~~Information about eligible practices will be maintained by the department and included in updates of its administrative procedures handbook available in district offices.~~

(4) If approved by the director or the director's designee, a person may use a more elaborate or expensive practice; however, cost-share grants shall be based upon the estimated cost of the least expensive acceptable practice.

~~(B) All practices must meet the standards and specifications listed in the "Field Office Technical Guide", or other methods approved by the director or the director's designee.~~

~~(C) If approved by the director or the director's designee, a person may use a more elaborate or expensive practice; however, cost-share grants shall be based upon the estimated cost of the least expensive acceptable practice.~~

~~(D)~~(B) Operating procedures.

(1) Practice installation.

(a) Design, construction and operation and management plans shall be submitted to the director or the director's designee for approval prior to implementation.

(b) The director or the director's designee shall inspect practice installation.

(2) Cost-share payment. Once a project has an approved cost-share application and installation is approved by the director or the director's designee, cost-share payment shall be granted.

(3) Maintenance and management of cost-shared best management practices.

(a) Best management practices installed with cost-share monies are to be maintained in good operating condition to assure continued effective control of agricultural pollution. Applicants for cost sharing must agree to care for, manage, and maintain such practices for their useful life as noted in the cost-share agreement. Failure to care for, manage, and maintain the practices shall obligate the owner or operator to full repayment to the department.

(b) If the land on which best management practices have been established with cost-share monies is sold, the new owner shall be responsible for

maintaining the practices in good operating condition for their remaining useful life. The director or the director's designee shall inform the new owner of the responsibility to maintain and operate cost-shared practices.

- (c) If the land on which best management practices were established with cost-share monies is sold for or converted to other uses than an agricultural production operation, the state may recover the cost-share monies paid for such practices from the cost-share recipient on a prorated basis, considering the useful life of the practice.
- (d) The director or the director's designee shall monitor the management and maintenance of best management practices established with cost-share monies. Any failure to manage or maintain such practices, or conversion of such land to other uses than an agricultural production operation, shall immediately be reported to the department thereby subjecting a person to recovery of cost-share monies in accordance with paragraphs (D)(3)(a), (D)(3)(b) and (D)(3)(c) of this rule.
- ~~(e) Upon discovery by the director or the director's designee, pursuant to paragraph (D)(3)(d) of this rule, the director, after any necessary investigation determines that recovery of state cost-share funds is warranted, shall proceed to recover the cost-share monies pursuant to section 131.02 of the Revised Code, or other appropriate means.~~
- (e) Pursuant to section 131.02 of the Revised Code, the director may proceed to recover any cost share funds that recovery is deemed warranted.

Effective:

Five Year Review (FYR) Dates: 3/5/2018

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 939.02
Rule Amplifies: 939.02
Prior Effective Dates: 11/01/1979, 05/01/1989, 05/07/1992, 11/15/1994,
06/01/2000, 10/03/2005, 12/23/2010, 12/31/2015
(Emer.), 04/01/2016