

**TITLE 25. ENVIRONMENTAL PROTECTION
CHAPTER 83. STATE CONSERVATION COMMISSION
Subchapter F. DIRT AND GRAVEL ROAD
MAINTENANCE PROGRAM
STATEMENT OF POLICY**

§83.601. Purpose.

It is the intention of the State Conservation Commission to provide local governments and other eligible entities with funds to:

- (1) Fund safe, efficient and environmentally sound maintenance of sections of dirt and gravel roads, which have been identified as sources of dust and sediment pollution.
- (2) Establish a dedicated and earmarked funding mechanism that provides stream-lined apportionment to the county level and enables local officials to establish fiscal and environmental controls.
- (3) Provide training to road crews on techniques of dirt and gravel road maintenance which minimize negative environmental impact.
- (4) Conduct demonstrations of new and innovative techniques of dirt and gravel road maintenance to assist in training of road crews and educate the general public on this matter.

§83.602. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Act - The Act of April 17, 1997 (P.L. 6, No. 3) amending the Vehicle Code by adding the Dirt and Gravel Road Maintenance Program at 75 P.S. §9106.

Cooperating Organization - An organization approved by the Commission to assist in implementing the Act.

District - A conservation district as defined in the Act of December 19, 1984 (P.L. 1125, No. 221, §2) known as the Conservation District Law, 3 P.S. §849-864.

Exceptional Value - A stream or watershed which is designated as an exceptional value water pursuant to 25 *Pa. Code* Chapter 93.

High Quality - A stream or watershed which is designated as a high quality water pursuant to 25 *Pa. Code* Chapter 93.

Performance Standards – Administrative policies and/or technical requirements adopted by the Commission for the implementation of the Dirt and Gravel Road Maintenance Program, including standards that prohibit the use of materials or practices which are environmentally harmful.

Project Area - A designated area where critical sediment and/or dust pollution problems have been identified.

Project Participant - A municipality or state agency eligible to participate in a Dirt and Gravel Road Maintenance project under the Act.

Quality Assurance Board or QAB - The administrative board impaneled by a district to administer the Dirt and Gravel Road Maintenance Program locally, pursuant to 75 P.S. §9106(e).

Quality Assurance Board Advisory Committee - The advisory committee established by the Commission to assist and advise the Commission on the implementation and administration of the Dirt and Gravel Roads Maintenance Program by local Quality Assurance Boards.

Task Force on Dirt and Gravel Roads - The public/private sector, multi-agency task force which provides program guidance to the Commission on technical standards and other aspects of the Dirt and Gravel Road Maintenance Program.

§83.603. Cooperation.

(a) The Commission will encourage cooperation between Commonwealth and federal agencies and other organizations including the Task Force on Dirt and Gravel Roads which have either direct or indirect involvement in the program to achieve the objectives to reduce sediment and/or dust pollution originating from dirt and gravel roads.

(b) Agencies other than conservation districts will be encouraged to work closely with the appropriate conservation districts to promote local awareness of the projects and to effectuate the purposes of this program.

§83.604. Apportionment Criteria.

(a) The Commission will apportion the amount of funds for each participating district under the program, based on the Act and the criteria listed below.

(b) The Commission may reallocate funds in the event that an agreement cannot be fulfilled by the district, local government, contractor, and agency or cooperating organization.

(c) Apportionment criteria shall be based on the verified need to correct pollution problems related to the road and shall include consideration of:

(1) The total number of miles of dirt and gravel roads maintained by local municipalities or state agencies that are open to the public during any period of the year.

(2) The total miles of dirt and gravel roads within watersheds protected as of November 1996 as exceptional value or high quality waters of the Commonwealth.

(3) Allowances for the local costs of limestone aggregate.

(4) The commitments of grant applicants to comply with the nonpollution requirements established.

(5) Other factors determined by the Commission to be appropriate.

(d) In the first fiscal year, top priority shall be given to specific trouble spot locations already mapped by the Task Force on Dirt and Gravel Roads. The Commission may, at its discretion, extend this priority beyond the first fiscal year.

(e) The Commission may allocate funds for training and/or road demonstration project to an aggregated budget managed by the Commission and may establish spending limits, consistent with the Act, which includes the portion of the aggregated funds administered by the Commission.

(f) Public notice of the apportionment of funds for this program shall be published by the Commission in the *Pennsylvania Bulletin*.

§83.605. Payments by the Commission to Districts.

(a) State funds apportioned to districts under this program will be utilized solely for implementing a county level Dirt and Gravel Roads Maintenance Program.

(b) The Commission shall provide apportioned funds to a participating district through an agreement between the Commission and each participating district.

(c) The State Conservation Commission may, at its discretion, withhold funds until the Commission has received any overdue program reports and audit statements as required by the Commission.

(d) For purposes of disbursing funds to participating conservation districts, the Commission may process an advanced working capital payment as follows:

(1) Upon the full execution of the grant agreement, the Commission may process up to 50% of the approved grant amount. Subsequent payments to the districts will be made on an "actual cash expended" basis to replenish the working capital advance.

(2) Advance payments by a conservation district to an eligible project participant under a project agreement shall be considered "actual cash expended" at such time as the advance is paid by the conservation district.

(3) The district must request such payments to replenish working capital in writing to the Commission in a format and timeframe as prescribed by the Commission. The Commission may set a minimum payment level and/or time frequency for each request for payment.

(4) Notwithstanding the provisions of (d)(1), (2), or (3) above, grant awards apportioned by the Commission to a conservation district and any advanced working capital payments made to conservation districts which will be \$25,000 or less for any one fiscal year may be advanced in total to the district.

§83.606. Quality Assurance Board Advisory Committee Responsibilities.

The QAB Advisory Committee will advise the Commission on:

- (1) allocation of funds from the state level to conservation districts;
- (2) development of program and administrative procedures for Quality Assurance Boards;
- (3) review of administrative and technical guidance for this program;
- (4) other matters relating to the administration of this program.

§83.607. District Responsibilities.

(a) A district participating in the Dirt and Gravel Road Maintenance Program shall enter into an agreement with the Commission establishing the duties and responsibilities of each.

(b) The district shall receive and manage funds for this program that have been apportioned by the Commission to the district.

(c) The district shall be responsible for all aspects of the management and administration of the Dirt and Gravel Road Maintenance Program within that county.

(d) A participating district shall conduct their Dirt and Gravel Roads Maintenance Program consistent with the Act, Statement of Policy and all other policies and regulations established by the State Conservation Commission.

(e) The district shall appoint and impanel a four-member Quality Assurance Board to administer the Dirt and Gravel Road Maintenance grant program within the county, under the supervision and direction of the district Board of Directors. The Quality Assurance Board is to be comprised of a non-voting Chairman appointed by the district and one local representative appointed by each of the following entities:

- (1) the federal Natural Resource Conservation Service;

(2) the Pennsylvania Fish and Boat Commission;

(3) the district.

(f) The district shall develop a fair and open project selection process, consistent with Commission policy, that provides general program information to all eligible project participants and includes sign-up periods as necessary to receive requests for road maintenance and repair work from eligible project participants. Special efforts will be made to enlist the cooperation of project participants with identified critical erosion or dust problems.

(g) Work completion by project participants will be subject to approval by the district under the performance standards adopted by the Quality Assurance Board.

(h) The district shall conduct an annual audit of program expenditures in accordance with guidance provided by the Commission.

(i) The district shall submit the results of their annual audit to the Commission in a manner and time frame as established by the Commission. The Commission reserves the right to audit all program-related accounts and records to determine if funds were expended in accordance with Commission policies and the requirements of the Act.

(j) The district shall report program accomplishments to the Commission on prescribed forms at times as specified by the Commission.

(k) The district shall maintain a separate accounting of funds received under the program. The district shall maintain an itemized accounting of administrative costs claimed. Districts shall deposit funds in a federally insured interest bearing account. Interest earnings from the account shall be applied only to the Dirt and Gravel Roads Program. In no case shall the percent of apportioned funds utilized by the district for administration or training grants exceed those limits established by the Commission and/or the Act.

(l) Records shall be retained by districts for 3 years after completion of the work.

(m) The Commission reserves the right to examine all records and files maintained by the district related to the administration of the district's Dirt and Gravel Roads Maintenance Program.

§83.608. Quality Assurance Board Responsibilities.

(a) The Quality Assurance Board impaneled by a district shall establish and administer the Dirt and Gravel Road Maintenance Program for the district, under the direction of the Board of Directors of the district, and consistent with the policies adopted by the Commission.

(b) The Quality Assurance Board shall consider and adopt:

(1) written criteria to assure equal access for all eligible applicants within each funding category;

(2) procedures that assure a minimum amount of procedural paperwork;

(3) written criteria to specify priorities;

(4) funding categories to provide separate budgeting for road maintenance projects, road demonstration projects, training grants and administrative costs:

(i) QAB training grants shall not exceed limits established by the State Conservation Commission;

(ii) Administrative costs shall not exceed 10%;

(5) incentives for training road managers and equipment operators;

(6) standards that prohibit use of materials or practices which are environmentally harmful;

(7) site inspection requirements to verify completion of work;

(c) The Quality Assurance Board shall review applications and recommend project participants to be funded through the program.

(d) The Quality Assurance Board shall consider and adopt procedures for the conduct of business by the Board, including:

(1) meeting schedules and procedures for public notice of meetings;

(2) record keeping and provisions to make minutes and records available to the public;

(3) rules of conduct, including such rules as may be necessary to avoid conflicts of interest by members of the Quality Assurance Board.

§83.609. Application by Project Participants.

(a) Applications will be on a one-page form approved by the Commission. Applications should be submitted to the local conservation district at such times designated by the local district. Handwritten applications will be acceptable.

(b) An application shall be specific to one work location or one type of work and shall include:

(1) a short description of the problem being solved;

(2) basis of the cost estimate;

(3) the proposed project work schedule;

(4) the basis for successful completion;

(5) the type of pollution to be reduced; and

(6) other items specified by the Commission.

(c) The Quality Assurance Board shall expedite the approval process by inserting additional requirements which become binding when accepted by the applicant.

§83.610. Agreements.

(a) An agreement is required between a district and project participants.

(b) The form of agreements between the district and project participants shall be approved by the Commission.

(c) Each agreement shall provide that the parties agree to comply with the conditions set forth in this Statement of Policy, the General Contract Conditions adopted by the Commission, and the performance criteria adopted by the Quality Assurance Board of the district.

(d) The term of the agreement shall be sufficient to cover the duration of work implemented under the agreement.

§83.611. Eligible Expenses

(a) Eligible expenses include all program and project costs associated with the administration and implementation of the program, and the design, review, approval, implementation, and maintenance of any project approved and funded by the program. Eligible costs payable to project participants for Dirt and Gravel Road Maintenance Program projects, and eligible costs payable to conservation districts for the overall administration and implementation of the program shall be determined by the Commission.

(b) Eligible expenses for project participants include all materials, services, and labor required to design and implement a project, including, but not limited to, all construction and maintenance supplies and materials, equipment rental and transportation charges, demurrage, reimbursement for use of participant owned equipment, salaries and benefits, automotive and hauling travel including room and board expenses, contracted specialized services, miscellaneous expenses, certain engineering and technical fees as determined by the Commission, and other expenses necessary for the satisfactory completion of a project as determined by the Commission.

(c) Eligible expenses for participating conservation districts shall include all eligible costs defined above for project participants, plus all materials, services, labor, insurance/ liability coverage, and all other expenses necessary for the overall administration and implementation of the program, the development and delivery of training /education programs, demonstration projects, resource assessment, site inspections, and other expenses as determined by the Commission to be necessary to administer and implement the program.

§83.612. Project Participant Responsibilities.

(a) Project participants shall conduct the dirt and gravel road maintenance project in accordance with the project agreement with the district, the work plan for the project, the standards established by the Quality Assurance Board for the district, and the policies adopted by the Commission.

(b) Project participants shall not use materials or practices that are environmentally harmful.

(c) Project participants shall apply for all necessary local, state and federal permits required for the project and shall provide the district with suitable documentation of permit issuance and requirements.

(d) Project participants shall report program accomplishments to the district in a manner prescribed in the agreement.

(e) Claims for payment shall be submitted to the district in accordance with the schedule contained in the agreement. The claims shall be itemized and show that the utilization of funds are in accordance with the budget outlined in the agreement. Such claims shall also include receipts, weigh slips, and/or other appropriate supporting information, as determined by the Commission, to document actual expenditures by the project participant.

(f) The district and the Commission reserve the right to audit project related accounts and records to determine if funds were expended in conformance with the agreement.

(g) A project participant shall maintain a separate accounting of the funds received under the program.

(h) Records shall be retained for 3 years following the last payment for the project.

(i) Upon the request of the district and/or the Commission, project participants shall provide access to all records, files and documents related to Dirt and Gravel Roads Maintenance Program Projects.

§83.613. Performance Standards.

(a) The Commission shall establish, as it deems appropriate, performance standards for the implementation of the Dirt and Gravel Road Maintenance Program. These standards may include specific administrative policies and/or technical requirements adopted by the Commission for the implementation and administration of the

program, including standards which prohibit the use of materials or practices which are environmentally harmful.

(b) Standards which prohibit the use of materials or practices which are environmentally harmful shall include the following minimum requirements:

- (1) All commercial products used by project participants within a project area shall be used and/or installed according to manufacturer's recommendations and label requirements;
- (2) Materials toxic to aquatic life, as defined by the Clean Streams Act, shall not be used where surface runoff may enter surface or ground waters;
- (3) Compliance with all applicable federal, state, and local laws, regulations, and permit requirements.

§83.614. Payment of Eligible Expenses to Project Participants.

(a) Payments made by a district pursuant to a project agreement shall be solely for "eligible expenses."

(b) Claims for payment shall be submitted by a project participant to the district in accordance with the schedule and terms contained in the approved project agreement. The claims shall be itemized and show that the utilization of funds are in accordance with the project cost summary contained in the approved project application and work plan. Claims shall include receipts, weigh slips, equipment use time sheets, employee time sheets, and/or other appropriate supporting information to document actual expenditures by the project participants.

(c) For the purpose of dispersing funds to a project participant under a project agreement, the district may process an advanced working capital payment as follows:

- (1) Upon the full execution of the project agreement, the district may process an advanced payment to a project participant of up to 50% of the approved project expenses.
- (2) Subsequent payments to the project participant will be made on an actual cash expended basis.
- (3) In all cases, the district shall withhold payment of at least 30% of the approved project expenses until the satisfactory completion of the project. Final payment for the project expenses shall be made only after a final inspection by the district determines that the work was performed consistent with the project application and the work plan, and to the satisfaction of the district.