

CHAPTER 10
IOWA FINANCIAL INCENTIVE PROGRAM FOR SOIL EROSION CONTROL

[Prior to 12/28/88, see Soil Conservation Department, 780—Ch 5]

27—10.1 to 10.9 Reserved.

PART 1

27—10.10(161A) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation, Iowa department of agriculture and land stewardship in accordance with the policies of the state soil conservation committee in implementing the state's financial incentive program for soil erosion control. It also establishes standards and guidelines to which the soil conservation districts shall conform in fulfilling their responsibilities under this program.

27—10.11(161A) Rules or subrules are severable. If any provision of a rule or subrule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule or subrule which can be given effect without invalid provision or application, and to this end the provisions of these rules or subrules are severable.

27—10.12 to 10.19 Reserved.

PART 2

27—10.20(161A) Definitions.

“Administrative order” means a written notice from the commissioners to the landowner or landowners of record and to the occupants of land informing them they are violating the district's soil loss limit regulations or maintenance agreement and advising them of action required to conform to the regulations.

“Allocation” means those funds that are identified as a district's share of the state's appropriated funds that have been distributed to a particular program.

“Applicant” means a person or persons applying for financial incentives for implementing soil and water conservation practices.

“Appropriations” means those funds appropriated from the general fund of the state and provided the division of soil conservation for funding the various incentive programs for soil erosion control.

“Case file” means a record that is assembled and maintained for each application approved for state cost sharing.

“Certifying technician” means the district conservationist of the soil conservation service or the district forester of the department of natural resources.

“Commissioner” means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of Iowa Code chapter 161A.

“Committee” or *“state soil conservation committee”* means the committee established by Iowa Code section 161A.4, as the policymaking body of the division of soil conservation.

“*Complaint*” means a written and signed document received by the commissioners from a landowner or occupant of land stating that said property in the district is being damaged by sediment resulting from soil erosion on the property of another named landowner.

“*Conservation cover*” means that if a tract of agricultural land has not been plowed or used for growing row crops at any time within 15 years prior to January 1, 1981, it shall be classified as agricultural land under conservation cover.

“*Department*” means the department of agriculture and land stewardship as established in Iowa Code chapter 159.

“*Distribution*” means the apportioning of appropriated funds among the various incentive programs.

“*District*” or “*soil and water conservation district(s)*” means a governmental subdivision of this state organized for the purposes, with the powers, and subject to the restrictions set forth in Iowa Code chapter 161A.

“*District cooperator*” is a landowner who has entered into a cooperator’s agreement with a district for the purpose of planning, applying, and maintaining the necessary soil and water conservation practices on land under landowner’s control.

“*Division*” means the division of soil conservation as established and maintained by the department pursuant to Iowa Code section 159.5(15) and administered pursuant to chapter 161A.

“*Excessive erosion*” means soil erosion that is occurring at a rate exceeding the established soil loss limit.

“*Forest land*” means land with stands of native or introduced trees containing at least 200 trees per acre. Stands of fruit trees shall not be considered as forest land.

“*Highway*” or “*road*” means the entire width between property lines of the publicly owned right-of-way.

“*Landowner*” includes any person, firm or corporation, partnerships, estates, trusts, or any federal agency, this state or any of its political subdivisions, who shall hold title to or have legal control over land lying within a district.

“*Maintenance agreement*” means an agreement between the recipient and the district that the recipient agrees to maintain the soil conservation practices for which financial incentives from the division through the district have been received. The agreement states that the recipient will maintain, repair, or reconstruct the permanent practices if they are not maintained for 20 years.

“*Obligated funds*” means those moneys that are set aside out of the district’s allocation or by the division for payment to a landowner after the commissioners have approved an application for financial incentives.

“*Performance agreement*” means an agreement between the recipient and the district that the recipient agrees to perform temporary soil conservation practices for which financial incentives from the division through the district have been received. The agreement provides for repayment if the practice is not suitably performed for five years.

“*Permanent*” or “*permanent soil and water conservation practice*” means a soil and water conservation practice that has a minimum life expectancy of 20 years.

“*Power of attorney*” means a legal document that grants a person the right to act on behalf of the landowner.

“*Program year*” means the state fiscal year for which program funds were appropriated.

“*Recipient*” means a landowner or farm operator who has qualified for and received financial incentive payments for implementing soil and water conservation practices.

“*Row cropped lands*” means land that is in an established rotation sequence that includes row crops and the sequence is actively being followed or is in consecutive row crop sequence.

“*Segment*” means the length of state, county, or city road that has been certified as having wind-blown soil that interferes with road maintenance or the safe operation of vehicles.

“*Soil conservation practices*” means any of the practices which serve to reduce erosion of soil by wind and water on land used for agricultural or horticultural purposes and approved by the state soil conservation committee.

“*Soil loss limit*” means the maximum amount of soil loss due to erosion by water or wind, expressed in terms of tons per acre per year, which the commissioners of the respective soil and water conservation districts have established by rule as acceptable.

“*State soil survey data base for Iowa*” means a listing of the soil map units for each county and the properties and interpretation for each of the map units.

“*Supplemental allocation*” means additional funds provided beyond the original allocation.

“*Supplementary administrative order*” means a written notice sent to those receiving an administrative order for violation of the district’s soil loss limit regulations advising that cost-share funds are being committed to the landowner or landowners and establishing time limits for correcting the soil erosion problems.

“*Technician*” means a person qualified to design, lay out and inspect construction of soil conservation practices, and who is assigned to or employed by a soil and water conservation district.

“*Temporary*” or “*temporary soil and water conservation practices*” means the planting of annual or biennial crops, use of strip cropping, contour planting, minimum or mulch tillage and other cultural practices approved by the state soil conservation committee.

“*Unobligated funds*” means those cost-share moneys the districts have been allocated and those the division administers that have not been obligated.

27—10.21 to 10.29 Reserved.

PART 3

27—10.30(161A) Compliance, refunds, reviews and appeals. This division establishes rules for determining landowner or farm operator compliance with performance or maintenance agreements that have been entered into as a result of receiving financial incentive payments for implementing soil conservation practices. This division also defines the responsibilities of the districts and the division for obtaining refunds from landowners or farm operators, and procedures to be followed, when it is found that temporary practices are not being performed in accordance with funding agreements.

This division also defines the responsibilities of the districts and the division for requiring maintenance, repair or reconstruction of permanent soil and water conservation practices when it is found that permanent practices are not being maintained in accordance with funding agreements.

27—10.31(161A) Compliance with performance or maintenance agreements.

10.31(1) Performance agreement. As a condition for receiving financial incentives funds for implementing a temporary soil and water conservation practice, the recipient shall agree to continue those practices for a minimum of five years after the date of the agreement. This is done by completing and signing Performance Agreement, Form IP-6, (see subrule 10.74(5), paragraphs “c,” “d”). In the event that the practices are not suitably performed for a minimum of five years, the entire incentive payment shall be paid back to the division.

a. Determination of practice implementation and continued compliance with performance agreements. The certifying technician or the technician of the district shall inspect the completed practice the first year after implementation and each year thereafter for a total period of five years, to ensure compliance with applicable standards and specifications in Part 8 of these rules. The certifying technician shall attest to completion and compliance to the standards by completing and signing a Certification of Practice, Form IP-2, for each inspection. The completed certification will be retained in the district's case file for the appropriate landowner.

b. Determination of noncompliance with performance agreement. If the certifying technician determines that the practice is not being implemented in accordance with applicable standards and specifications in Part 8 of these rules, it shall be so noted on the Certification of Practice, Form IP-2. The district shall notify the division in writing within five days of the noncompliance finding. The notification to the division shall contain supporting data and a complete explanation documenting why the landowner or farm operator is considered not to be in compliance with the performance agreement. In making the determination of compliance or noncompliance, the district will consider circumstances beyond the control of the landowner or farm operator.

c. Termination of performance agreements. If the recipient of financial incentive funds wishes to terminate the performance agreement, the landowner or farm operator shall pay back to the division the entire incentive payment received.

d. Transfer of performance agreements. The recipient shall be allowed to work out a subagreement to transfer the performance agreement to a new landowner or farm operator who agrees to continue to implement the practice during the remaining time period of the agreement. In this case the new landowner or farm operator will be obligated to continue the practice for the remaining time of the agreement in accordance with applicable standards and specifications in Part 8 of these rules. The previous landowner or farm operator would be relieved of all financial obligation to the agreement, unless the subagreement was found to be defective.

10.31(2) Maintenance agreement. As a condition for receipt of any financial incentives funds for implementing permanent soil and water conservation practices, the owner of the land on which the practices have been installed shall agree to maintain those practices for a minimum of 20 years after the date of the agreement. This is done by completing and signing Maintenance Agreement, Form IP-4, (see subrule 10.74(5), paragraph "b"). Specific conditions of the maintenance agreement are detailed on the form.

a. Determination of practice implementation and continued compliance with maintenance agreements.

(1) The certifying technician or the technician of the district will determine if the completed practice is in compliance with applicable standards and specifications in Part 8 of these rules. The certifying technician shall attest to completion and compliance to the standards by completing and signing the Certification of Practice, Form IP-2. The completed certification will be retained in the district case file for the appropriate landowner.

(2) The certifying technician or district technician shall inspect the practice at any time the district commissioners have reason to believe it is not being satisfactorily maintained. The division will evaluate the situation to determine that proper procedures were followed. Satisfactorily maintained means being maintained in such a state of repair so that the practice is successfully performing the function for which it was originally installed. Following the inspection, the certifying technician shall attest to compliance with the maintenance agreement by completing and signing a Certification of Practice, Form IP-2. The completed certification shall be filed in the district's case file for the landowner.

(3) The district shall inspect a practice whenever requested to do so by the landowner. The person requesting the inspection shall be provided a copy of the Certification of Practice, Form IP-2, which is used to document the results of this inspection.

b. Determination of noncompliance with maintenance agreement. If the certifying technician determines that the practice is not being satisfactorily maintained, it shall be so noted on the Certification of Practice, Form IP-2. The district shall notify the division in writing of the noncompliance finding. The notification to the division shall contain a complete explanation of why the practice is considered not to be in compliance with the maintenance agreement. The division will evaluate the situation to determine that proper procedures were followed. Satisfactorily maintained means the practice has been maintained in such a state of repair that it is successfully performing the function for which it was originally installed.

c. In the event that properly maintained practices that were installed with the assistance of Iowa financial incentive program funds are damaged due to natural disasters, completing the maintenance agreement shall not constitute an action or intent on the part of the division to prevent the owner of the land on which the practices were installed from receiving federal emergency conservation program assistance to repair or replace the practices.

27—10.32(161A) Noncompliance with performance or maintenance agreements. When found to be in noncompliance with performance agreements, the recipient of the financial incentive payment will be required to pay back to the division the total amount of the incentive payment received.

When found to be in noncompliance with a maintenance agreement, the landowner will be required to maintain, repair or reconstruct the permanent practice, or repay an amount if appropriate as required by subrule 10.32(2) or 10.32(3).

10.32(1) Noncompliance with performance agreements. Upon determination by the district and the division that a landowner or farm operator is not in compliance with a performance agreement, the division shall request the district to issue an administrative order to the landowner or farm operator for repayment to the division the entire incentive payment received. If the refunded incentive payment is not received by the division within 60 days from the date of issue of the administrative order and an appeal has not been made in accordance with rule 10.33(161A), the division shall seek action by the attorney general.

10.32(2) Refunds for noncompliance with maintenance agreements to cost-share agreements entered prior to July 1, 1981. Those agreements entered prior to January 1, 1981, were not enforceable against subsequent purchasers of land, but did require persons receiving cost-share assistance to refund public funds if the project was altered within ten years after receipt of payment and to relinquish all of those public cost-share funds received.

10.32(3) Refunds for noncompliance with maintenance agreements entered between January 1, 1981, and July 1, 1982. Upon determination by the district and the division that a landowner is not in compliance with a maintenance agreement, the division shall request the district to issue an administrative order to the landowner requiring appropriate repayment to the division or a commitment to replace or repair the practice, provided voluntary means have been exhausted.

a. Refund to the division. If the landowner chooses not to repair or replace the practice, the refund shall be submitted to the division within 60 days from the date of issue of the administrative order. If the refunded incentive payment has not been received by the division within 60 days from the date of issue of the administrative order and an appeal has not been made in accordance with rule 10.33(161A), the division shall seek action by the attorney general.

b. Repair or replacement of the practice. If the landowner chooses to repair or replace the practice, the landowner shall submit to the district a written and signed statement of intent within 60 days from the date of the administrative order. The repair or replacement work shall be initiated within 180 days from the date of issue of the administrative order and shall be satisfactorily completed within one year.

c. Amount of refund. When a landowner is found to be in noncompliance with a maintenance agreement the landowner shall repay to the division a pro rata amount of the incentive payment received. The pro rata amount to be refunded shall be based upon the following table:

Age of Project (Years)	Percent Refund	Age of Project (Years)	Percent Refund
0	100	11	68.6
1	99.5	12	62.9
2	98.6	13	56.7
3	97.1	14	50.0
4	95.2	15	42.9
5	92.9	16	35.2
6	90.0	17	27.1
7	86.7	18	18.6
8	82.9	19	9.5
9	78.6	20	0.0
10	73.8		

When determining the amount of the incentive payment to be refunded, the age of the project shall be rounded to the nearest year. Exact one-half year increments shall be rounded upward, e.g., a project age determined to be exactly 7.50 years old would be rounded upward to 8 when determining the percent of the incentive payment that shall be refunded.

d. Reallocation of refunds. Refunds obtained by the division shall be reallocated to the district from which they were refunded and shall be used to cost-share permanent soil conservation practices.

10.32(4) *Noncompliance with maintenance agreements entered after July 1, 1982.*** Upon determination by the district and the division that a landowner is not in compliance with a maintenance agreement, the division shall assist the district in the issuance of an administrative order to the landowner requiring appropriate maintenance, repair or reconstruction of the practice, provided voluntary means have been exhausted.

a. Within 60 days from the date of issue of the administrative order, the landowner shall submit to the district a written and signed statement of intent to maintain, repair or reconstruct the practice.

b. The maintenance, repair or reconstruction work shall be initiated within 180 days from the date of issue of the administrative order and shall be satisfactorily completed within one year of the date of issue of the administrative order.

10.32(5) *Agricultural land converted to nonagricultural land.* If land subject to a performance or maintenance agreement is converted to a nonagricultural use that does not require a permanent soil and water conservation practice which has been established with financial incentives, the practice shall not be removed until the owner refunds an amount of the payment received.

a. Amount of refund. The amount of refund will be the same as 10.32(3)“c.”

**Projects started prior to July 1, 1982, will be subject to the provisions of subrule 10.32(3).

- b. Funds will be deposited into an account established by the district.
- c. Use of the funds will be limited to providing financial incentives under this chapter.
- d. Districts will notify the division when such funds are collected.

27—10.33(161A) Appeals and reviews. A landowner or farm operator who has been ordered to refund a financial incentive payment for a temporary practice, or a permanent practice subject to a maintenance agreement, entered between January 1, 1981, and July 1, 1982, may, as appropriate, review the order with the district commissioners or the division of soil conservation. Appeals to the state soil conservation committee may be made by the district, a landowner or a farm operator following a review by the division director or the director's designee.

10.33(1) Review with soil and water conservation district commissioners. When a landowner or farm operator wishes to appeal an order to repay a financial incentive payment for a temporary practice, or a permanent practice subject to a maintenance agreement, entered between January 1, 1981, and July 1, 1982, the landowner or farm operator may request a review of the order with the district commissioners. The commissioners shall schedule a meeting to review the problem with the landowner or farm operator. This proceeding shall be informal. A landowner or farm operator shall request a review with the district commissioners in writing and within 30 days following receipt of their order.

10.33(2) Review with the division of soil conservation. In those cases where a landowner or farm operator feels they have unjustly been ordered to refund a financial incentive payment for a temporary practice, or a permanent practice subject to a maintenance agreement, entered between January 1, 1981, and July 1, 1982, and they have been unable to resolve the problem through a meeting with the district commissioners, the landowner or farm operator may file a written request with the division for a review. The division review shall be conducted by the division director or the director's designee. This proceeding shall be informal. A landowner or farm operator shall request their review with the division in writing within 30 days following their review with the district.

10.33(3) Appeal to the state soil conservation committee. In those cases where the district, a landowner, or farm operator is not satisfied with the decision rendered as a conclusion of a division review concerning an order to repay a financial incentive payment for a temporary practice, or for a permanent practice covered by a performance agreement or a maintenance agreement entered between January 1, 1981, and July 1, 1982, the district, the landowner, or farm operator may appeal the division's decision to the state soil conservation committee. This proceeding shall be a formal, contested case hearing. The district, landowner, or farm operator shall make their appeal to the state committee in writing and within 30 days following completion of the division's review.

10.33(4) The committee will either affirm, modify, or vacate the administrative order following the completion of the contested case hearing.

27—10.34 to 10.39 Reserved.

PART 4

27—10.40 Reserved.

27—10.41(161A) Appropriations. The department of agriculture and land stewardship, division of soil conservation, has received appropriations for conservation cost sharing since 1973 and appropriations to fund certain incentive programs for soil erosion control since 1979. Funds are appropriated each year by the general assembly.

The division has four years to encumber or obligate these funds before they revert to the state's general fund. This rule addresses the distribution of these appropriations among the incentive programs for soil erosion control established by the division in accordance with the authorities extended in Iowa Code chapter 161A. The rule is also consistent with the restrictions imposed by language of the appropriations bills.

Except for the programs authorized in subrules 10.41(2), 10.41(4), 10.41(5), 10.41(8), and 10.41(9), these funds shall not be used alone or in combination with other public funds to provide a financial incentive payment greater than 50 percent of the approved cost for permanent soil conservation practices.

10.41(1) Voluntary program. Ninety percent of the appropriation is to be used for cost sharing to provide state funding of not more than 50 percent of the approved cost of permanent soil and water conservation practices or for incentive payments to encourage management practices to control soil erosion on land that is now row-cropped.

Not more than 30 percent of a district's original and supplemental allocation may be used for the establishment of management practices listed in subrules 10.82(1) and 10.82(2).

The commissioners of a district may allocate voluntary program funds for the restoration of permanent soil and water conservation practices which are damaged or destroyed because of a disaster emergency. Funds may be used for construction, reconstruction, installation, or repair of projects. The commissioners must determine that funds are necessary to restore permanent practices to prevent erosion in excess of applicable soil loss limits caused by the disaster emergency. Funds cannot be used unless a state of disaster emergency pursuant to a proclamation as provided in Iowa Code section 29C.6 has been declared. Funds can be used only if federal or state disaster emergency funds are not adequate. Funds do not have to be allocated on a cost-share basis. Districts are required to report to the division regarding restoration projects and funds allocated for projects.

10.41(2) Publicly owned lakes. For the approved cost of permanent soil conservation practices on watersheds above publicly owned lakes, 5 percent of the amount appropriated is to be set aside for cost sharing at a rate not to exceed 75 percent.

10.41(3) Mandatory program. Five percent of the appropriation is to be set aside for cost sharing with landowners or farm operators who are required to install soil erosion control practices as a result of an administrative order from the district to abate complaints filed under Iowa Code section 161A.47.

10.41(4) Special watershed projects. Iowa Code section 161A.7 permits cost sharing up to 60 percent of the cost of a project including five or more contiguous farm units which have at least 500 or more acres of farmland and which constitute at least 75 percent of the agricultural land lying within a watershed or subwatershed, where the owners jointly agree to a watershed conservation plan in conjunction with their respective farm unit soil conservation plan.

10.41(5) Summer construction incentives (SCI). Unspent funds distributed to the voluntary program in any fiscal year may be used for SCI cost-share up to 60 percent if there are not adequate requests for permanent practices to obligate the balance.

10.41(6) Southeastern Iowa tillage research program. Rescinded IAB 7/25/90, effective 7/6/90.

10.41(7) Nonpoint source pollution control practices. Rescinded IAB 8/14/96, effective 7/24/96.

10.41(8) Funds distributed to annual programs and provided to districts may be used in combination with department of natural resources funds in accordance with the following:

a. Proposals to allow an overall cost-share rate of greater than 50 percent to the landowner must be submitted by districts and approved on a project-by-project basis by the state soil conservation committee.

b. The maximum cost-share rate realized by the landowner shall not exceed 75 percent when state cost-share funds appropriated to the division and districts are utilized in combination with such department of natural resources funds.

c. Funds utilized by districts in conjunction with such special projects shall come from the district's regular allocation.

d. Only those permanent practices listed in subrule 10.82(3) shall be eligible for financial incentive payments.

(1) Any practices to be installed on public land must meet the requirements of subrule 10.73(3) and be installed and paid for by the adjoining private landowner.

(2) Subrule 10.81(6) on upland treatment shall also apply.

e. In accordance with subrule 10.73(4), paragraph “a,” no cost-sharing with other government agencies is allowed.

10.41(9) Funds distributed to annual programs and provided to districts may be used in combination with other public funds on grade stabilization structures, in accordance with the following:

a. The maximum cost-share rate realized by the landowner shall not exceed 75 percent when state cost-share funds appropriated to the division and districts are utilized in combination with other public funds.

b. Funds utilized by districts in conjunction with such projects shall come from the district’s regular allocation.

c. Only grade stabilization structures established in accordance with procedures pursuant to the rules shall be eligible for financial incentive programs.

d. The recipient will be required to sign an agreement as stated in subrule 10.74(5).

This rule is intended to implement Iowa Code chapter 161A; 1994 Iowa Acts, chapter 1198, section 1, subsection 4, paragraphs “b,” “c,” and “d”; 1995 Iowa Acts, chapter 216, section 1, subsection 4, paragraphs “b,” “c,” and “d”; 1996 Iowa Acts, chapter 1214, section 1, subsection 4, paragraphs “b,” “c,” and “d”; and 1997 Iowa Acts, House File 708, section 1, subsection 4, paragraphs “b,” “c,” and “d.”

27—10.42(312) Wind erosion control incentive program (WECIP). Rescinded IAB 12/31/97, effective 2/4/98.

27—10.43 to 10.49 Reserved.

PART 5

27—10.50(161A) Allocations to soil and water conservation districts. This division identifies those program funds that are allocated to the districts and explains how the allocations are made.

27—10.51(161A) Voluntary program. The division will allocate program funds to the districts in steps identified as original allocation, supplemental allocation, and reallocation.

10.51(1) Original allocation. Sixty percent of the fiscal year funds distributed to this program will be allocated to the districts at the beginning of the fiscal year in accordance with a formula based on the state soil survey database for Iowa. The formula is $A = wzf$, where:

a. A = allocation to the district.

b. w = the percentage factor for the district, determined by $(x/y) (100)$, where:

(1) x = district acres, determined by totaling the district’s land capability class acres from the state soil survey database for Iowa using the formula: $(\frac{1}{4})2e + 3e + 4e$.

(2) y = state acres, determined by totaling the state’s land capability class acres from the state soil survey database for Iowa using the formula: $(\frac{1}{4})2E + 3E + 4E$.

c. z = sixty percent of fiscal year funds distributed to the voluntary program.

d. f = an adjustment factor of 0.980 applied to each district’s allocation to adjust the original allocation to compensate for establishing a minimum of four-tenths of 1 percent of “z” to ensure that each district has a workable program.

e. The following table provides the value of “w” for each district:

Individual Soil and Water Conservation District

Percentage Allocation Factors

<u>W(%) District</u>	<u>W(%) District</u>	<u>W(%) District</u>	<u>W(%) District</u>
1.8 Adair	1.2 Davis	1.0 Jefferson	0.2 Pocahontas*
1.2 Adams	1.3 Decatur	1.1 Johnson	0.7 Polk
1.5 Allamakee	0.8 Delaware	1.2 Jones	1.4 E. Pottawattamie
1.1 Appanoose	0.6 Des Moines	1.4 Keokuk	1.2 W. Pottawattamie
1.4 Audubon	0.4 Dickinson	0.6 Kossuth	1.5 Poweshiek
1.4 Benton	1.9 Dubuque	1.0 Lee	1.6 Ringgold
0.5 Black Hawk	0.3 Emmet*	1.1 Linn	0.7 Sac
0.5 Boone	1.1 Fayette	0.5 Louisa	0.9 Scott
0.3 Bremer*	0.3 Floyd*	1.1 Lucas	1.7 Shelby
0.4 Buchanan	0.6 Franklin	0.8 Lyon	1.0 Sioux
0.4 Buena Vista	1.0 Fremont	1.2 Madison	0.6 Story
0.6 Butler	0.4 Greene	1.2 Mahaska	1.5 Tama
0.3 Calhoun*	0.5 Grundy	1.3 Marion	1.7 Taylor
1.2 Carroll	1.5 Guthrie	1.4 Marshall	1.1 Union
1.5 Cass	0.4 Hamilton	1.0 Mills	1.2 Van Buren
1.2 Cedar	0.3 Hancock*	0.3 Mitchell*	1.0 Wapello
0.5 Cerro Gordo	0.7 Hardin	1.2 Monona	1.1 Warren
1.0 Cherokee	1.6 Harrison	1.0 Monroe	1.1 Washington
0.4 Chickasaw	0.9 Henry	1.2 Montgomery	1.4 Wayne
1.2 Clarke	0.4 Howard	0.6 Muscatine	0.3 Webster*
0.3 Clay*	0.2 Humboldt*	0.4 O'Brien	0.5 Winnebago
2.0 Clayton	1.3 Ida	0.3 Osceola*	1.8 Winneshiek
1.2 Clinton	1.4 Iowa	1.5 Page	2.3 Woodbury
2.4 Crawford	1.6 Jackson	0.4 Palo Alto	0.3 Worth*
0.8 Dallas	1.7 Jasper	2.4 Plymouth	0.4 Wright

*The minimum value to be used in determining original allocations to districts shall be 0.4.

f. For currently funded fiscal years, district commissioners may allocate not more than 30 percent of their original allocation and supplemental allocation to be used for the establishment of management practices to control soil erosion on land that is now row-cropped. Incentive payments will be made on a per acre basis, but not exceeding \$10 per acre for no-till, ridge-till, or strip-till planting; \$6 per acre for contouring; and \$15 per acre for contour strip cropping.

10.51(2) Supplemental allocation. The remaining balance of the fiscal year program funds plus the previous fiscal year funds from the mandatory program as distributed in subrule 10.41(4) and the public lakes fund as distributed in subrule 10.41(2) that were not obligated, less a \$50,000 reserve fund, will be provided to the districts in a supplemental allocation. The districts shall submit their request identifying valid applications and cost estimates, if any, for supplemental allocations to the division by August 15. The allocation to any district will be the lesser amount of:

- a. The amount of remaining available funds divided by the number of districts applying for a supplemental allocation.
- b. Three times the original allocation to the district.
- c. Two percent of the total amount distributed to the program.
- d. The amount requested.

10.51(3) Recall of funds. Any funds allocated the previous fiscal year that the districts have not obligated by December 31 of the following fiscal year and any funds that were obligated during the previous fiscal year for projects for which construction has not been started by December 31 will be recalled by the division.

10.51(4) Reallocation of recalled funds. The districts shall submit their requests identifying valid applications and cost estimates, if any, to the division by February 1 of each year. The allocation to any district will be the lesser amount of:

- a. The amount of remaining available funds divided by the number of districts applying for a supplemental allocation.
- b. Three times the original allocation to the district.
- c. Two percent of the total amount distributed to the program.
- d. The amount requested.

10.51(5) Eligibility of soil and water conservation districts for supplemental allocations and reallocations. For a district to qualify for a supplemental allocation or a reallocation, it must meet the following requirements:

- a. One hundred percent of the funds allocated three fiscal years before must have been spent or have been recalled by the division for reallocation.
- b. Seventy percent of the funds allocated two fiscal years before must have been spent or recalled by the division for reallocation.
- c. Sixty percent of the total funds allocated the immediate past fiscal year must have been spent.
- d. Seventy-five percent of the funds allocated during the current fiscal year must be obligated.

10.51(6) Recall and reallocation of funds by division director. When the unspent balance of funds allocated for a fiscal year three years before is less than \$50,000 the division director can recall these unspent funds and reallocate them to a district or districts that can demonstrate a need.

27—10.52(161A) Publicly owned lakes. The division of soil conservation maintains the funds that are distributed to the publicly owned lakes program. These funds may be used to provide cost sharing not to exceed 75 percent of the approved cost of permanent soil conservation practices on watersheds above publicly owned lakes and reservoirs. The division will allocate these program funds to eligible districts in steps identified as original allocation, recall of unobligated funds, and reallocation.

10.52(1) Original allocation. Funding needs will be identified and funds will be set aside for watershed projects which have cost-share funds in addition to state and landowner funds (e.g., federal, county, or other). The remaining funds will be allocated equally between the other watersheds identified on the publicly owned lakes priority list.

10.52(2) Recall of unobligated funds. Funds that are allocated to districts under this program and are not obligated within three months shall be recalled by the division and reallocated. This recall of unobligated funds does not apply to those watershed projects that have an organized program that includes cost sharing in addition to state and landowner funds.

10.52(3) Recall of obligated, but unspent funds. Any funds allocated to the district and obligated the previous fiscal year for projects for which construction has not been started by December 31 of the following fiscal year will be recalled by the division and reallocated.

10.52(4) Reallocation of recalled funds. The reallocation of recalled funds will be based on need and demonstrated ability to use the funds. The districts shall submit their requests identifying valid applications and cost estimates, if any, to the division. The division shall allocate funds for these requests on a first-come, first-served basis to other eligible watersheds above publicly owned lakes.

10.52(5) Eligible watersheds. For a landowner to qualify for 75 percent cost sharing under this program, the watershed in which the land is located must be on a list of priority watersheds above publicly owned lakes or reservoirs that is established by the department of natural resources.

10.52(6) Applications and agreements. Applications and agreements for 75 percent cost sharing under this program will be handled by the districts as described in Part 7 of these rules except as follows:

a. The division maintains a separate control ledger for encumbrance and disbursement of cost-share funds for these projects.

b. When the district commissioners have decided that an application for cost-share assistance is approved for a landowner in an eligible lake or reservoir watershed, a copy of the approved application, Form IP-1, will be sent to the division with a request for obligation of funds. The division will review the request and return the application to the district denying or obligating funds. Appropriate notification of the status of the application will be provided the applicant by the commissioners.

c. Should the commissioners desire to amend the application (Form IP-1) to change the amount of work or the cost, prior approval of the amendment (Form IP-1A) must be obtained from the division.

27—10.53(161A) Woodland fencing program. Rescinded IAB 7/25/90, effective 7/6/90.

27—10.54(161A) Mandatory program. The division of soil conservation maintains the funds that are distributed to the mandatory cost-share program. These funds are used to provide cost sharing to landowners who are required to establish permanent soil and water conservation practices as the result of a district's administrative order or a court order.

10.54(1) Applications and agreements. Applications and maintenance agreements for 50 percent cost sharing under this program will be handled by the districts as described in Part 7 of these rules except as follows:

a. The landowner does not have to be a district cooperator and does not have to sign a cooperator's agreement.

b. When the district commissioners have decided that cost-share assistance is to be approved for a landowner, a copy of the application, Form IP-1, and a copy of the cost estimate proposed by the technician will be sent to the division with a request for funding obligation. The division will review the application, sign the fund obligation section of Form IP-1, if funds are available, and return the application to the district. If funds are not available, the division will return the unsigned application with a letter of explanation to the district. The district will notify the landowner of the status by issuing a supplementary administrative order.

c. Should the commissioners desire to amend the application (Form IP-1) to change the amount of work or the cost, prior approval of the amendment (Form IP-1A) must be obtained from the division.

10.54(2) *Redistribution of program funds.* Any unobligated program funds remaining at the end of the fiscal year will be redistributed to the voluntary cost-share program. These funds will be included with the supplemental allocation to districts.

27—10.55(161A,312) Wind erosion control incentive program (WECIP). Rescinded IAB 12/31/97, effective 2/4/98.

27—10.56(161A) Special watershed projects. District commissioners will satisfy the following conditions with regard to special watershed projects:

10.56(1) Prior to approving a project application for 60 percent cost-share, the district must obtain a project number from the division.

10.56(2) All participating landowners in a particular project will be required to show progress towards completion during the first year of the project. Progress will be evaluated by the district. Failure of all participating landowners to show progress during the first year will result in loss of authorization of the project and 60 percent cost-share funding eligibility.

10.56(3) Authorization for each project shall not exceed five years.

27—10.57(161A) Reserve funds. The division shall administer a reserve fund for each program year that shall not exceed \$50,000.

10.57(1) Purpose and use of the reserve fund. The reserve fund will be set aside and used only to meet contingencies that occur in the districts or within the division.

10.57(2) Replenishing the reserve fund. Each time a supplemental allocation or a reallocation is made to the districts an allocation will be made to the reserve fund if needed to return the balance to \$50,000.

10.57(3) The division may phase out the reserve fund after two years by reverting funds to the voluntary program, provided the balance for the program year is less than \$100,000.

27—10.58(161A) Nonpoint source pollution control practices. Rescinded IAB 12/31/97, effective 2/4/98.

27—10.59 Reserved.

PART 6

27—10.60(161A) Funding rates. The purpose of this division is to establish the funding rates at which the state will fund or share the cost for approved soil conservation practices under the various incentive programs. In all cases, except for the mandatory program, the state's share will be computed using the percentages specified below and the estimated cost, the amended estimated cost, or the actual cost of implementing the practice, whichever is less. Payments under the mandatory program will be based on actual costs.

10.60(1) *Voluntary.*

a. The state will cost-share 50 percent of the cost certified by the certifying technician as being reasonable, proper, and incurred by the applicant in voluntarily installing approved, permanent soil conservation practices. Eligible costs include machine hire or use of the applicant's equipment, needed materials delivered to and used at the site, and labor required to install the practice.

b. For currently funded fiscal years, the division will make one-time payments of up to \$10 per acre for no-tillage, ridge-till and strip-till; \$6 per acre for contouring; and 50 percent of the cost up to \$25 per acre for strip-cropping, field borders and filter strips.

c. Funding for the restoration of permanent practices damaged or destroyed because of a disaster (see 10.41(1)) does not have to be allocated on a cost-share basis.

10.60(2) *Summer construction incentives.* Commissioners may enter agreements providing for cost sharing up to 60 percent of the cost of establishing approved, permanent soil and water conservation practices where the establishment of that practice involves a construction project which begins after June 1 but before September 15 of any calendar year. Commissioners shall not use state cost-sharing funds to pay such incentives when requests for cost sharing at the 50 percent level are sufficient to use all of the district's allocation for that fiscal year.

10.60(3) *Special watershed projects.* Commissioners may enter into agreements providing for cost sharing up to 60 percent of the cost of a project that includes five or more contiguous farm units which collectively have at least 500 or more acres of farmland and which constitute at least 75 percent of the agricultural land lying within a watershed or a subwatershed. The owners must jointly agree to a watershed conservation plan in conjunction with their respective farm unit soil conservation plans.

10.60(4) *Mandatory.* The rate of cost share for permanent soil and water conservation practices required as a result of an administrative order shall be 50 percent of the total cost to the landowner of installing the approved practice. The cost must be certified by the technician as being reasonable, proper and incurred by the landowner. The rate of cost share for temporary soil and water conservation practices is set by the state soil conservation committee.

10.60(5) *Watersheds above publicly owned lakes.* The state will cost-share 75 percent of the approved cost of permanent soil and water conservation practices on watersheds above certain publicly owned lakes. Watersheds above publicly owned lakes that qualify for 75 percent cost sharing must be identified on a priority list established by the department of natural resources.

10.60(6) *Conservation cover.* Cost share for certain lands is restricted by Iowa Code chapter 161A. Each tract of agricultural land which has not been plowed or used for growing at any time within 15 years prior to January 1, 1981, shall be considered classified as agricultural land under conservation cover. "Agricultural land" has the meaning assigned that term by Iowa Code section 9H.1. If any tract of land so classified is thereafter plowed or used for growing row crops, the district commissioners shall not approve use of state cost-share funds for establishing permanent or temporary soil and water conservation practices on that tract of land in an amount greater than one-half the amount of cost-share funds which would be available for that land if it were not classified as agricultural land under conservation cover. This restriction shall apply even if an administrative order or court order has been issued requiring establishment of conservation practice.

10.60(7) *Woodland fencing program.* Rescinded IAB 7/25/90, effective 7/6/90.

10.60(8) *Wind erosion control incentive program (WECIP).* Rescinded IAB 12/31/97, effective 2/4/98.

10.60(9) *Nonpoint source pollution control practices.* Rescinded IAB 12/31/97, effective 2/4/98.

27—10.61 to 10.69 Reserved.

PART 7

27—10.70(161A) Applications and agreements. The purpose of this part is to identify and define procedures to be followed in applying for and entering agreements for receiving financial incentives for implementing approved temporary or permanent soil and water conservation practices.

27—10.71(161A) Applications submitted to soil and water conservation district. Landowners or farm operators desiring to be considered for financial incentives for implementing soil and water conservation practices shall complete necessary applications as specified in this part. Application and agreement forms referenced in this part are described in Part 9, “Forms,” of these rules. All application forms and agreements for financial incentives are available from and shall be submitted to the local district office located in the county where such practices are proposed. If an applicant’s land is in more than one district, the respective district commissioners will review the application and agree to obligate all funds from one district or prorate the funding between districts.

27—10.72(161A) Application signup.

10.72(1) *Signatures by landowner(s) and qualified farm operator(s).* All applications and agreements shall be signed by the landowner except as noted in subrule 10.72(3) below. For a farm operator to qualify for payment, both landowner and operator must sign the application.

10.72(2) *Land being bought under contract.* All applications and agreements concerning land being purchased under contract shall be signed by both the contract seller and the contract buyer. If the operator is applying, the contract buyer, the contract seller, and the operator must sign.

10.72(3) *Power of attorney.* Applications and agreements may be signed by any person designated to represent the landowner or farm operator, provided the appropriate power of attorney has been filed with the district office. The power of attorney requirement can be met by submitting a completed Power of Attorney, Form SCD-2, or other properly notarized full power of attorney statement to the district office. In the case of estates and trusts, court documents designating the responsible person or administrator may be submitted to the district in lieu of the power of attorney.

27—10.73(161A) Eligibility for financial incentives.

10.73(1) District cooperator. Financial incentives will not be available for land not covered under a cooperator agreement except as waived under subrule 10.73(2). Application for district cooperator shall be made by submitting a completed Cooperator Agreement, Form SCD-1, to the district office. The district shall approve or deny the application and notify the applicant of the action within 60 days of receipt of the completed Cooperator Agreement.

10.73(2) Administrative order. Landowners who are required to install practices as a result of an administrative order or court order are not required to meet the district cooperator requirement.

10.73(3) Practices installed on adjoining public lands. Where soil and water conservation practices are installed on public lands, which benefit adjoining private lands, and costs of the installation are to be shared by the parties, state cost-share funds may be used to cost-share the landowner cost of the erosion control portion of the project.

10.73(4) Ineligible lands.

a. Iowa financial incentive funds shall not be used to reimburse other units of government for implementing soil and water conservation practices.

b. Privately owned land not used for agricultural production shall not qualify for financial incentives.

c. Tracts of land used for agricultural production which are less than ten acres in size and from which less than \$2500 of agricultural products are sold annually shall not qualify for financial incentives funds, unless approved by the commissioners as part of a group project or as a continuation of an adjacent system.

10.73(5) Need for soil and water conservation practices.

a. *Need determined by district.* Financial incentives shall be available only for those soil and water conservation practices determined to be needed by the district to reduce excessive erosion or sedimentation and included in the designated practices identified in Part 8 of these rules. Such determination of need shall be made by a qualified technician.

b. *Certification of need by district.* The district technician shall evaluate the need before signing the technician certification section of Application for Financial Incentives, Form IP-1.

10.73(6) District priorities. Each application for financial incentives shall be evaluated under the priority system adopted by the district for disbursement of allocated funds. The district priority system shall give consideration to family-operated farms and public benefit derived. The priority system adopted by the district shall be made available for review at the district office. In establishing its priorities for funds made available beginning July 1, 1983, the district shall also give consideration to the landowner's effort to implement Iowa Soil 2000 program requirements.

27—10.74(161A) Financial incentive application and processing procedures.

10.74(1) Application for financial incentives.

a. *Application submitted by landowner and farm operator.* Applicants for financial incentives for soil and water conservation practices shall complete and submit Application for Financial Incentives, Form IP-1, to the district office. Assistance in completing the form is available from soil and water conservation district personnel.

b. *Denial of application by district.* Applications for Financial Incentives, Form IP-1, which are denied by the district shall be retained in the district to the end of the fiscal year. Written notification of the denial shall be provided to the applicant along with the reason(s) that the application was denied. Application denial as used in this part refers to those applications which cannot be approved for reasons other than lack of available financial incentive funds.

c. *Obligation of funds.* Following approval of an application for financial incentives, the district may obligate funds for the project or, as appropriate, secure obligation of funds from the division for the amount of the project cost estimate identified on the application. In those cases where funds are not available, the application will be held by the district until funding becomes available or until the end of the fiscal year. Upon obligation of funds, the district shall notify the applicant.

d. *Application withdrawn by applicant.* An application may be withdrawn by the applicant at any time prior to receipt of payment by notifying the district in writing that withdrawal is desired. Applications withdrawn by the applicant shall be retained in the records of the district until the end of the fiscal year.

10.74(2) Project design by district.

a. *District personnel responsible for design.* The technician of the district shall design and lay out proposed soil and water conservation practices for which financial incentives funds have been obligated. The certifying technician of the district shall be responsible for determining compliance with applicable design standards and specifications.

b. *Cost estimate adjustments.*

(1) Application amendment. In the event that adjustment to the project cost estimate is necessitated by the final design, the applicant shall either agree to assume the additional cost or complete and submit Amendment to Application for Financial Incentives, Form IP-1A, to the district for approval or denial by the commissioners.

(2) Adjustment to obligated funds. The district shall adjust the amount of incentive funds obligated for the project or secure adjusted obligation from the division for funds obligated by the division. In the event that additional funds are not available, the project may be redesigned, if possible, to a level commensurate with available funds, or the applicant can agree to assume full financial responsibility for the portion of the project cost in excess of the amount obligated.

10.74(3) Practice construction and certification.

a. *Constructions contracts.* The landowner and farm operator shall be responsible for securing any contractor(s) needed and for all contractual or other agreements necessary to construct or perform the approved practice(s).

b. *Certification of practice.* The certifying technician or the technician of the district will determine that the completed practice is in compliance with applicable standards and specifications and that costs incurred are reasonable and proper. The certifying technician shall make such determination by completing and signing the Certification of Practice, Form IP-2. A copy of the certification will be retained in the district's case file.

10.74(4) Payment of financial incentives.

a. *Submittal of bills and claim voucher to district.* The applicant shall submit to the district a signed claim voucher and all bills relative to the project. Any materials and labor provided by the applicant must be itemized on a signed Proof of Expense, Form IP-5, which will be attached to the claim voucher.

b. *Approval for payment.* The commissioners shall review the technician's Certificates of Practice, Form IP-2, prior to approving the voucher for submittal to the division for payment.

c. *Claim submitted to the division by district.* The signed claim voucher, bills and attached Proof of Expense, Form IP-5, if applicable, shall be submitted in duplicate by the district to the division.

d. Payment forwarded to the district. Payment for the reimbursable cost of the project will be returned by the division to the district. The district will secure the signature of the landowner and farm operator, if appropriate, on either Maintenance Agreement, Form IP-4, or Performance Agreement, Form IP-6, as appropriate. Upon transfer of payment to the recipient, the district shall obtain from the recipient a completed Receipt of Payment, Form SCD-5.

10.74(5) Maintenance and performance agreements.

a. Maintenance agreement required. As a condition for receipt of any financial incentives funds for permanent soil and water conservation practices, the owner of the land on which the practices have been installed shall agree to maintain those practices for a minimum of 20 years after the date of the agreement, except for practices Planned Grazing System (556) and Pasture and Hayland Planting (512) which shall be maintained for a period of ten years.

b. Maintenance agreement form. Agreement to maintain practices for which financial incentives are being paid shall be by completing and signing Maintenance Agreement, Form IP-4. Specific conditions of the maintenance agreement are as detailed on the form. Completion of the form and signature of the landowner is required prior to transfer of the incentives payment from the district to the recipient(s).

c. Performance agreement required. As a condition for receipt of any financial incentives funds for temporary soil and water conservation practices, the landowner or farm operator shall agree to continue those practices for a minimum of five years after the date of the agreement. In the event that the practices are not suitably performed for a minimum of five years, the entire incentive payment shall be paid back to the division.

d. Performance agreement form. Agreement to perform temporary soil and water conservation practices for which financial incentives are being paid shall be by completing and signing Performance Agreement, Form IP-6. Specific conditions of the performance agreement are as detailed on the form. Completion of the form and signature of the landowner is required prior to transfer of the incentives payment from the district to the recipient(s).

e. Filing of agreements.

(1) Establish a file for maintenance agreements. The district shall establish and maintain a separate permanent file containing any Maintenance Agreement, Form IP-4, and Amendment to Maintenance Agreement, Form IP-4A. The maintenance agreements file shall be accessible for review by the public.

(2) Establish a file for performance agreements. The district shall establish and maintain a separate permanent file containing any Performance Agreement, Form IP-6, and Amendment to Performance Agreement, Form IP-6A. The file shall be accessible for review by the public.

(3) Statement of compliance or noncompliance. A seller of agricultural land with respect to which a maintenance agreement is in effect may request the district to inspect the practices. If the practices have not been removed, altered, or modified, the district shall issue a written statement that the seller has satisfactorily maintained the permanent practice as of the date of the statement.

The buyer of lands covered by a maintenance agreement, where buyer means someone who has completed contract for sale or deed, may also request that the district inspect the lands to determine whether any practice has been removed, altered, or modified as of the date of the inspection. If so, the district will provide the buyer with a statement specifying the extent of noncompliance as of the date of the statement.

The seller and the buyer, if known, shall be given notice of the time of inspection so that they may be present during the inspection to express their views as to compliance.

10.74(6) Case files. A case file shall be assembled and maintained for each application approved. The file will contain the approved Application for Financial Incentives, Form IP-1; any Amendment to Application for Financial Incentives, Form IP-1A; a copy of the estimated cost sheet; Certification of Practice, Form IP-2; voucher and bills or receipts; Receipt of Payment, Form SCD-5; Maintenance Agreement, Form IP-4, or Performance Agreement, Form IP-6; and a map and legal description locating the practice. Case files shall be filed by program year.

27—10.75 to 10.79 Reserved.

PART 8

27—10.80(161A,312) General conditions, eligible practices and specifications. The purpose of this part is to establish the general conditions and limitations concerning practice implementation, the state-approved soil and water conservation practices eligible for state financial incentives and the specifications for which funded practices must conform.

27—10.81(161A,312) General conditions. The following general conditions shall be met, where applicable, in addition to the specifications in rule 27—10.84(161A,312). To the extent of any inconsistency between the general conditions and the specifications, the general conditions shall control.

10.81(1) Practice need. The designated soil and water conservation practices shall not be funded unless the technician has inspected the site and has determined that such practice(s) is needed to reduce excessive erosion or sedimentation.

10.81(2) Eligible practices must control erosion and sediment. Only those soil and water conservation practices applied to agricultural crop and pasture land whose primary function is to control soil erosion and prevent sediment damage will be eligible for incentive program funds.

10.81(3) Limitation of reimbursable costs of practices. Overbuilding or other practice modifications which exceed the minimum requirements of the specification shall be permitted, if approved by the technician. Any additional costs resulting from such overbuilding or exceeding of the minimum specifications shall not be cost shared by the state. Examples of overbuilding or exceeding specifications include but are not limited to the following:

- a. Where a landowner desires that water be stored for purposes other than grade stabilization to control erosion,
- b. Where additional top width is added to an earthen fill to provide a field crossing or road,
- c. Where additional flow capacity for lowland drainage laterals is added to an underground outlet constructed as a component of a terrace system, and
- d. Where a livestock watering pipe is installed in a grade stabilization structure. Cost share is limited to \$250 for the watering pipe and valves. Payment will be made only if the structure is fenced.

10.81(4) Materials. Projects funded with Iowa financial incentive funds will utilize only new materials or used materials that meet or exceed design standards and have a life expectancy of 20 years.

10.81(5) Existing practices.

a. *Repair and maintenance.* Repair and maintenance of existing practices are not eligible for funding.

b. *Addition of underground outlets.* The addition of underground outlets to existing waterways and terraces is not eligible for funding.

10.81(6) Upland treatment. Seventy-five percent of the upland area shall be adequately treated for erosion control before waterways or grade stabilization structures will be funded.

10.81(7) Seeding.

a. Seeding required. Following practice construction, seeding shall be performed as appropriate in accordance with seeding specifications referenced in rule 10.84(161A,312), except as waived below.

b. Seeding after specified seeding dates. When the construction of a practice is completed after the seeding date contained in the specifications, seeding may be delayed until the following year. If delayed, the applicant shall be responsible for protecting the practice with temporary vegetative cover or other means until the seeding can be completed. For seeding delayed until the next year, the district may approve payment for the completed practice but such payment shall exclude the seeding cost. The remaining payment for seeding may be made available the following year.

10.81(8) Diversions. Diversions are eligible for funding only when used to prevent downstream erosion.

10.81(9) Converting land to permanent vegetative cover. Pasture and hay land planting will be eligible for funding only when land that has been planted to row crop for three out of the last five years is being converted to permanent vegetative cover.

10.81(10) Underground outlet. Underground outlets are eligible for Iowa financial incentive funding only when used as a component of eligible permanent practices contained in subrule 10.82(2).

27—10.82(161A,312) State designation of eligible practices. Only those soil and water conservation practices listed in this rule are eligible for the Iowa financial incentives program funds.

10.82(1) Tillage practices.

a. No-till planting. A form of noninversion tillage that retains protective amounts of residue on the surface throughout the year.

b. Ridge-till planting. A form of noninversion tillage that retains protective amounts of residue on the surface throughout the year.

c. Strip-till planting. A form of noninversion tillage that retains protective amounts of residue on the surface throughout the year.

10.82(2) Temporary practices.

a. Critical area planting. Establishment of vegetative planting to control sediment movement from severely eroding areas by stabilizing the soil. These plantings would include vegetation such as trees, shrubs, vines, grasses or legumes.

b. Contouring. Farming sloping cultivated land in such a way that tillage operations, planting and cultivating are done on the contour. This includes following established grades of terraces, diversions, or contour strips.

c. Contour strip-cropping. Growing crops in a systematic arrangement of strips or bands on the contour to reduce water erosion. The crops are arranged so that a strip of grass or close-growing crop is alternated with a strip of clean-tilled crop or fallow or a strip of grass is alternated with a close-growing crop.

d. Field border. A strip of perennial vegetation established at the edge of a field, to be used as a turn area in lieu of end-rows up and down hill to control erosion and provide wildlife food and cover.

e. Filter strips. A strip or area of vegetation for removing sediment, organic matter and other pollutants from runoff.

10.82(3) Permanent practices.

a. Critical area planting. Rescinded IAB 12/31/97, effective 2/4/98.

b. Diversion. A channel with a supporting ridge on the lower side constructed across the slope to conduct excess runoff water to a suitable outlet.

c. *Field windbreak.* A strip or belt of trees or shrubs established within or adjacent to a field to reduce sediment damage and soil depletion caused by wind.

d. *Grade stabilization structure.* An earthen dam or embankment with a mechanical outlet (pipe conduit, drop spillway or chute outlet) to stabilize the flowline grade or control head cutting in a natural or constructed channel.

e. *Grass strips.* A strip of tall growing perennial vegetation within or adjacent to a field to reduce sediment damage and soil depletion caused by wind.

f. *Grassed waterway or outlet.* A natural or constructed waterway or outlet, shaped and graded on which suitable vegetation is established, to conduct excess surface runoff water from terraces, diversions or natural watershed basins.

g. *Pasture and hayland planting.* The establishment of long-term stands of adapted species of perennial forage plants, to control excessive water erosion, by converting land from row crop production to permanent vegetative cover.

h. *Terrace.* An earthen barrier or embankment constructed across the field slope using a combination of a ridge and channel to reduce field erosion, and trap sediment. Types of terraces commonly referenced to as broad based, narrow based, grassed backslope, basin, level, gradient and parallel are eligible for Iowa financial incentive payments.

i. *Underground outlet.* A conduit installed beneath the ground surface to collect surface water from terraces, diversions, water and sediment basins, and convey the water to a suitable outlet.

j. *Water and sediment control basin.* A short earthen embankment with an underground outlet, constructed across the slope in minor watercourses to reduce erosion and trap sediment.

k. *Fencing.* Rescinded IAB 12/31/97, effective 2/4/98.

27—10.83(161A,312) Designation of eligible practices. District commissioners may designate which soil and water conservation practices will be eligible for Iowa financial incentive payments in their district. The selected practices must be from the state-approved practices contained in rule 27—10.82(161A,312). The general conditions contained in rule 27—10.81(161A,312) and the specifications contained in rule 27—10.84(161A,312) shall apply to the district designated practices.

27—10.84(161A,312) Specifications. These specifications and the general conditions, rule 27—10.81(161A,312), shall be met in all cases. In each specification the listed USDA-Natural Resources Conservation Service specification in force on the date indicated in these rules or the Department of Natural Resources Forestry Technical Guide shall be used. To the extent of any inconsistency between the general conditions and the specifications, the general conditions shall control.

10.84(1) Critical area planting. USDA-NRCS-IOWA, Field Office Technical Guide, Section IV, Code No. 342, October 1988.

10.84(2) Diversion. USDA-NRCS-IOWA, Field Office Technical Guide, Section IV, Code No. 362, June 1987.

10.84(3) Field windbreak. USDA-NRCS-IOWA, Field Office Technical Guide, Section IV(D), Woodland Tree Planting, Code No. 612, May 1992, Field Windbreak, Code No. 392, February 1992.

10.84(4) *Grade stabilization structure.* USDA-NRCS-IOWA, Field Office Technical Guide, Section IV, Grade Stabilization Structure, Code No. 410, January 1986.

10.84(5) *Grass strips.* Grass strips shall be perennial vegetation planted parallel to road segments designated as qualified in the WECIP. The strips shall have a minimum width of 50 feet and the maximum width to be funded shall be 50 feet. The grass strip shall not be used as a road and grazing and hay production will not be permitted. Seeding and fertilizer rates shall be in accordance with the specifications contained in USDA-NRCS-IOWA, Field Office Technical Guide, Section IV, Code No. 512, Pasture and Hayland Planting, August 1990. There shall be no nurse crop. The strip may be mowed one time after July 15 of the seeding year for weed control.

10.84(6) *Grassed waterway or outlet.* USDA-NRCS-IOWA, Field Office Technical Guide, Section IV, Grassed Waterway, Code No. 412, April 1990.

10.84(7) *Iowa Till.* Rescinded IAB 12/31/97, effective 2/4/98.

10.84(8) *Pasture and hayland planting.* USDA-NRCS-IOWA, Technical Field Guide, Section IV, Code No. 512, August 1990.

10.84(9) *Terrace.* USDA-NRCS-IOWA, Field Office Technical Guide, Section IV, Code No. 600, May 1991.

10.84(10) *Underground outlet.* USDA-NRCS-IOWA, Field Office Technical Guide, Section IV, Code No. 620, March 1991.

10.84(11) *Water and sediment control basin.* USDA-NRCS-IOWA, Field Office Technical Guide, Section IV, Code No. 638, November 1983.

10.84(12) *No-till planting.* Seedbed preparation and planting are completed in one operation by a coultter mounted in front of the planter. Starter fertilizers and pesticides are usually applied during the planting operation. Soil disturbance is 10 percent or less depending on the type of coultters and openers used. Contact herbicides are often used to burn down competing vegetation growing at planting time. An early application of a preemergence herbicide may lessen the need for the contact burn-down application. Preemergence herbicide may lessen the need for the contact burn-down application. Preemergence or postemergence herbicides are used to control weeds during the growing season. Cultivation may be performed as needed.

Contouring is necessary on slopes that normally require contouring with conventional tillage.

10.84(13) *Ridge-till.* Seed preparation and planting are completed in one operation on ridges 8-9 inches in height. Crop residue may be left undisturbed or chopped or shredded. Planting is completed by scalping the top of the ridge with a sweep or disk. Less than one-third of the field area is disturbed. Band application of preemergence herbicides along with mechanical cultivation normally controls most weed species. Ridges are reconstructed during the last cultivation of the season.

On the slopes exceeding 4 percent, ridges are to be constructed on the contour to avoid excessive erosion. No-till planting on ridges is also included in this category. No more than 10 percent of the surface area is disturbed with this type of planting.

Contouring is necessary on slopes that normally require contouring with conventional tillage.

10.84(14) *Strip-till.* Seedbed preparation and planting are completed in one operation by a rotary tillage tool or other similar type equipment. Crop residue may be left undisturbed or chopped or shredded. Planting is completed by tilling a seedbed which is no more than one-third of the field area. Weed control is accomplished with a combination of mechanical cultivation and herbicides.

Contouring is necessary on slopes that normally require contouring with conventional tillage.

10.84(15) *Contouring.* USDA-NRCS-IOWA, Field Office Technical Guide, Section IV(A), Code No. 330, November 1991.

10.84(16) *Contour strip-cropping.* USDA-NRCS-IOWA, Field Office Technical Guide, Section IV, Code No. 585-A, November 1991.

10.84(17) *Fencing.* Rescinded IAB 12/31/97, effective 2/4/98.

10.84(18) *Filter strips.* USDA-NRCS-IOWA, Field Office Technical Guide, Section IV, Code No. 393, January 1989.

10.84(19) *Field borders.* USDA-NRCS-IOWA, Field Office Technical Guide, Section IV, Code No. 386, January 1987.

27—10.85 to 10.89 Reserved.

PART 9

27—10.90(161A,312) Reporting and accounting. Reserved.

27—10.91(161A,312) Reports. Incentive program funds are appropriated for and assigned to the department by fiscal year. The district will, therefore, maintain separate control ledgers and prepare separate reports of work accomplished with funds allocated to them for each of the fiscal years.

10.91(1) *Quarterly report.* The district will submit a quarterly report to the division indicating the unobligated balance of cost-share funds as shown on each ledger at the close of the last day of the quarter.

10.91(2) *Annual report.* The district will submit an annual report to the division. These reports will reflect accomplishments by program year funds. Reports shall be submitted to the division on or before July 7 each year.

27—10.92(161A,312) Control of lands. The district will, based on estimated cost, maintain a record of funds obligated for approved applications.

27—10.93 and 10.94 Reserved.

27—10.95(161A,312) Forms. Standard forms, applications, and agreements used by the applicant and recipient of financial incentives for soil erosion control as outlined in these rules are identified in the following subrules. Copies of all forms, applications, and agreements are available from the soil conservation district office located in each county. Copies are also available from the division at the following address: Division of Soil Conservation, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. All forms, applications, and agreements used by the applicant and recipient of financial incentives shall be submitted to the soil conservation district office, unless specified otherwise in these rules.

10.95(1) *Forms for financial incentives program.*

Form number	Description
SCD-1	Cooperator agreement. This is a one-page form which serves as an agreement between a landowner and a district. The agreement specifies that the district will provide technical assistance in planning, applying, and maintaining soil conservation and water management practices on a tract of land. The landowner through this agreement grants authorization to district personnel for ingress and egress upon the land. The agreement contains information necessary for the district to prioritize technical assistance activities.
SCD-2	Power of attorney. This is a one-page form used by a landowner to designate to another person the authority to act on the landowner's behalf in applying for and receiving technical and financial assistance from the district. The power of attorney grants full authority to the designated person to perform all acts and requirements necessary to receive technical and financial assistance from the district.
SCD-5	Receipt of payment. This is a one-half-page form used by the recipient of financial incentive funds to acknowledge that payment has been received from the district.
IP-1	Application for financial incentives. This is a one-page form used by the applicant to request financial incentives from the district and the division. The form serves as the application for all financial incentives programs administered by the district and division. The application identifies the scope of proposed soil conservation or water management practices, identifies preliminary cost estimates, and requires information used by the district and division for prioritizing requests for funds.
IP-1 Addendum	Special consideration for financial incentives. This is a one-page form used by the district to inform the applicant of certain program requirements to which the applicant must conform to be eligible for financial incentives.
IP-1A	Amendment to application for financial incentives. This is a one-page form used by the applicant and the district to amend the application for financial incentives. The completed amendment identifies the specific conditions of the original application which are modified and provides that all other conditions of the application are retained in effect.
IP-2	Certification of practice. This form is used by the district to certify the completion of the installed practice, compliance with applicable standards and specifications, and that costs incurred are reasonable and proper.
IP-4	Maintenance agreement. This form serves as an agreement between the recipient and the district that the recipient agrees to maintain for 20 years the permanent soil conservation practices for which financial incentives from the division through the district have been received.

- IP-4A Amendment to maintenance agreement. This is a one-page form used by the recipient and the district to amend the maintenance agreement. The completed amendment identifies the specific conditions of the maintenance agreement which are modified and provides that all other conditions of the agreement are retained in effect.
- IP-5 Proof of expense. This is a one-page form used to document appropriate expenses for materials and services provided by the recipient in installing permanent soil and water conservation practices.
- IP-6 Performance agreement. This is a two-page form which serves as an agreement between the recipient and the district that the recipient agrees to perform temporary soil conservation practices for which financial incentives from the division through the district have been received. The agreement provides for repayment of the incentive funds to the division if the funded practices are not suitably performed for a minimum of five years.
- IP-6A Amendment to performance agreement. This is a one-page form used by the recipient and the district to amend the performance agreement. The completed amendment identifies the specific conditions of the performance agreement which are modified and provides that all other conditions of the agreement are retained in effect.

10.95(2) Reserved.

27—10.96 to 10.99 Reserved.

Rules in Chapter 10 are intended to implement Iowa Code chapter 161A; 1994 Iowa Acts, chapter 1198, section 1, subsection 4, paragraphs “b,” “c,” and “d”; 1995 Iowa Acts, chapter 216, section 1, subsection 4, paragraphs “b,” “c,” and “d”; 1996 Iowa Acts, chapter 1214, section 1, subsection 4, paragraphs “b,” “c,” and “d”; and 1997 Iowa Acts, House File 708, section 1, subsection 4, paragraphs “b,” “c,” and “d.”

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