

CHAPTER 13
ORGANIC NUTRIENT MANAGEMENT PROGRAM

PART 1

27—13.1 to 13.9 Reserved.

27—13.10(161C) 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 an organic nutrient management program. This fund shall be used to establish and administer an organic nutrient management program to provide for the allocation of cost-share moneys as financial incentives to eligible persons applying to participate in the program. It also establishes standards and guidelines to which the soil and water conservation districts shall conform in fulfilling their responsibilities under this program.

27—13.11(161C) Rules 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—13.12 to 13.19 Reserved.

PART 2

27—13.20(161C) Definition of terms. In addition to the terms defined herein, definitions in 27—10.20(161A) shall apply.

“Actively engaged in farming” means a person who:

1. Inspects the production activities periodically and furnishes at least half of the value of the tools and pays at least half the direct cost of production; or
2. Regularly and frequently makes or takes an important part in making management decisions substantially contributing to or affecting the success of the farm operation; or
3. Performs physical work which significantly contributes to crop or livestock production.

“Family farm corporation” means a corporation:

1. Founded for the purpose of farming and the ownership of agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related;
2. All of its stockholders are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts as defined in Iowa Code section 9H.1(10); and
3. Sixty percent of the gross revenues of the corporation over the last consecutive three-year period comes from farming.

“*Family farm limited liability company*” means a limited liability company which meets all of the following conditions:

1. The limited liability company is founded for the purpose of farming and the ownership of agricultural land in which the majority of the members are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related.
2. All of the members of the limited liability company are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts.
3. Sixty percent of the gross revenues of the limited liability company over the last consecutive three-year period comes from farming.

“*Family farm limited partnership*” means a limited partnership which meets all of the following conditions:

1. The limited partnership is formed for the purpose of farming and the ownership of agricultural land in which the general partner and a majority of the partnership interest is held by and the majority of limited partners are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related.
2. The general partner manages and supervises the day-to-day farming operation on the agricultural land.
3. All of the limited partners are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts.
4. Sixty percent of the gross revenues of the partnership over the last consecutive three-year period comes from farming.

“*Family trust*” means a trust:

1. In which a majority interest in the trust is held by and the majority of the beneficiaries are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related; and
2. In which all the beneficiaries are natural persons, who are not acting as a trustee or in a similar capacity for a trust, as defined in Iowa Code section 9H.1(10), or persons acting in a fiduciary capacity, or nonprofit corporations; and
3. If the trust is established on or after July 1, 1988, the trust must be established for the purpose of farming and 60 percent of the gross revenues of the trust over the last consecutive three-year period must come from farming.

27—13.21 to 13.29 Reserved.

PART 3

27—13.30(161C) Compliance, refund, reviews and appeals. Rule 27—10.30(161A) shall apply.

27—13.31 to 13.39 Reserved.

PART 4

27—13.40(161C) Appropriations. Organic nutrient management program funds are appropriated to the division of soil conservation and deposited in the organic nutrient management account.

27—13.41 to 13.49 Reserved.

PART 5

27—13.50(161C) Allocations to soil and water conservation districts.

13.50(1) Allocation of funds. On August 25, 1993, and each succeeding July 1, the division will allocate funds recalled according to 13.50(3) and 96 percent of appropriated funds equally among the 100 soil and water conservation districts. Two percent of the appropriated funds will be used to administer the program and 2 percent will be held in reserve funds according to 13.50(5).

13.50(2) Recall of funds not obligated. Effective December 31, 1994, any funds allocated to a district that have not been obligated for projects on December 31 will be recalled by the division and reallocated according to 13.50(4).

13.50(3) Recall of funds where construction has not commenced. Any funds allocated to a district that were unobligated or obligated for projects for which construction has not commenced on May 31 will be recalled by the division and reallocated according to 13.50(1).

13.50(4) Supplemental allocation of recalled funds. Effective January 31, 1995, districts shall submit requests identifying valid applications and cost estimates to the division annually, by January 31. The supplemental allocation to any district will be the lesser amount of:

a. The amount of remaining funds divided by the number of districts applying for a supplemental allocation.

b. The amount requested.

13.50(5) Reserve funds. The division shall administer a reserve fund for the program consisting of 2 percent of each year's appropriated funds. The reserve fund will be set aside and used only to fund contingencies that occur in the districts or within the division. The division may phase out the reserve fund by reallocating these funds under 13.50(4) or 13.50(6).

13.50(6) Recall and reallocation of funds by division director. When the unspent balance of funds in the program is less than \$30,000, the division director may recall these unspent funds and reallocate them to a district or districts that demonstrate valid applications and cost estimates.

27—13.51 to 13.59 Reserved.

PART 6

27—13.60(161C) 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 organic nutrient management program funds.

27—13.61(161C) Applications submitted to soil and water conservation district. Landowners or farm operators seeking organic nutrient management program funds shall complete necessary applications as specified in this part. Application and agreement forms referenced in this chapter are those described in rule 27—10.95(161A,312). All application forms and agreements for organic nutrient management program funds are available from and shall be submitted to the 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—13.62(161C) Application sign-up.

13.62(1) *Signatures by landowner(s) and qualified farm operator(s).* All applications and agreements shall be signed by the landowner. For a farm operator to qualify for payment, both landowner and farm operator must sign the application.

13.62(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 farm operator is applying, the contract buyer, the contract seller, and the farm operator must sign.

13.62(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—13.63(161C) Eligibility for financial incentives.

13.63(1) *District cooperator.* Financial incentives will not be available for land not covered under a cooperator agreement. 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.

13.63(2) *Ineligible lands or persons.*

a. Organic nutrient management program funds shall not be used to reimburse other units of government for implementing organic nutrient management practices.

b. Privately owned land not used for agricultural production shall not qualify for organic nutrient management program funds.

c. A person is not eligible to participate unless actively engaged in farming or is an individual family farm, a family farm corporation, family farm limited partnership, family farm trust, or family farm limited liability company.

d. A person is not eligible to participate who is a party to a legal or administrative action, including a contested case proceeding under Iowa Code chapter 17A, which relates to an alleged violation of Iowa Code chapter 455B involving the disposal of livestock waste, until the action is resolved.

e. A person shall not use moneys allocated to this program for purposes of paying a fine or civil penalty or for remediating or restoring the condition of an area contaminated by livestock waste.

13.63(3) *District priorities.* Each application for organic nutrient management program shall be evaluated under the priority system adopted by the district for disbursement of allocated funds. The priority system adopted by the district shall be made available for review at the district office.

27—13.64 to 13.69 Reserved.

PART 7

27—13.70(161C) General conditions, eligible practices, specifications and cost-share rates. The purpose of this part is to establish the general conditions, eligible practices, specifications, and cost-share rates for the installation of organic nutrient management systems authorized in 1993 Iowa Acts, chapter 176, section 14.

27—13.71(161C) General conditions. The following general conditions shall be met.

13.71(1) Technician certification. The designated organic nutrient management systems shall not be funded unless the technician has inspected the site and has determined that such system(s) is needed to protect the water resources of the state from livestock waste runoff.

13.71(2) Limitation of reimbursable cost 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.

13.71(3) Materials. Projects funded with organic nutrient management program funds will utilize only new materials or used materials that meet or exceed design standards and have a life expectancy of 20 years.

13.71(4) Repair or maintenance. Repair or maintenance of existing practices is not eligible for funding.

13.71(5) Maintenance agreements.

a. Maintenance agreement required. As a condition for receipt of any organic nutrient management program funds, 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.

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

27—13.72(161C) Eligible practices. Practices listed in this rule are eligible for organic nutrient management program fund reimbursement.

13.72(1) Animal waste management system. A planned system in which all necessary components are installed for managing liquid and solid waste, including runoff from concentrated waste areas, in a manner that does not degrade soil or water resources.

Cost-sharing under this practice is only authorized for the following components.

- a.* Sediment basins.
- b.* Diversions.
- c.* Filter strips.
- d.* Pond sealing or linings.
- e.* Waste storage ponds.
- f.* Waste storage structures.
- g.* Waste treatment lagoons.

13.72(2) Waste management system plan. A waste management system plan shall be developed by the landowner before cost-share will be authorized.

27—13.73(161C) Standards and construction specifications.

13.73(1) The standards and construction specifications listed in these rules and general conditions shall be met in all cases. The USDA-Soil Conservation Service standards and construction specifications in force on the date indicated in these rules shall be used. To the extent of any inconsistency between the general conditions and the standards and construction specifications, the general conditions shall control.

13.73(2) Waste management systems. USDA-SCS-IOWA, Iowa Field Office Technical Guide, Section IV, Code No. 312, August 1992.

27—13.74(161C) Cost-share rates. The following cost-share rates shall apply for the eligible practices designated in 13.72(1). The use of state cost-share funds alone or in combination with other public funds shall not exceed the limits established by these rules. The cost-share rate for the practice designated in 13.72(1) shall be 50 percent of the actual or estimated cost of installation, whichever is less, not to exceed \$7500 during any fiscal year. A fiscal year begins on July 1 and ends on June 30. A person who has received financial assistance in a prior fiscal year is eligible to receive financial assistance in a subsequent fiscal year, unless the financial assistance is used to support the establishment of a system previously receiving assistance under this program.

27—13.75 to 13.79 Reserved.

PART 8

27—13.80(161C) Reporting and accounting. Reports will be prepared in the same manner as provided in 27—10.91(161A,312).

These rules are intended to implement Iowa Code chapter 161C and 1993 Iowa Acts, chapter 176, section 14, and 1994 Iowa Acts, chapter 1198, sections 14, 33 and 34.

[Filed emergency 8/25/93 after Notice 7/21/93—published 9/15/93, effective 8/25/93]

[Filed emergency 9/9/94 after Notice 7/20/94—published 9/28/94, effective 9/9/94]