

CHAPTERS 23 to 29

Reserved

CHAPTER 30

AGRICULTURAL DRAINAGE WELLS—ALTERNATIVE DRAINAGE SYSTEM
ASSISTANCE PROGRAM

27—30.1 to 30.9 Reserved.

27—30.10(159,161A,455H) 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 agricultural drainage wells — alternative drainage system assistance program established by 1997 Iowa Acts, chapter 193, and chapter 215, section 16. This program provides financial assistance for closing agricultural drainage wells and constructing alternative drainage systems that are part of a drainage district. These rules establish the assistance program, provide for the allocation of assistance funds, and establish procedures and standards for eligibility to receive assistance under the program.

27—30.11(159,161A,455H) 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 provision or application, and to this end the provisions of these rules or subrules are severable.

27—30.12 to 30.19 Reserved.

27—30.20(159,161A,455H) Definitions. When used in this chapter:

“*Agricultural drainage well*” means a vertical opening to an aquifer or permeable substratum which is constructed by any means including but not limited to drilling, driving, digging, boring, augering, jetting, washing, or coring, and which is capable of intercepting or receiving surface or subsurface drainage water from land directly or by a drainage system.

“*Agricultural drainage well area*” means an area of land where surface or subsurface water drains into an agricultural drainage well directly or through a drainage system connecting to the agricultural drainage well.

“*Alternative drainage system*” means a drainage system constructed as part of a drainage district in order to drain surface or subsurface water from land due to the closing of an agricultural drainage well.

“*Designated agricultural drainage well area*” means an agricultural drainage well area in which there is located an anaerobic lagoon or earthen manure storage basin required to obtain a construction permit by the department of natural resources.

“*Division*” means the division of soil conservation of the department of agriculture and land stewardship.

“*Drainage district*” means a drainage district established pursuant to Iowa Code chapter 468.

“*Drainage system*” means tile lines, laterals, surface inlets, or other improvements which are constructed to facilitate the drainage of land.

“*Earthen storage structure*” means an earthen cavity, either covered or uncovered, including but not limited to an anaerobic lagoon or earthen manure storage basin which is used to store manure, sewage, wastewater, industrial waste, or other waste regulated by the department of natural resources, if stored in a liquid or semiliquid state.

“*Land*” means land which is used or which is suitable for use for any purpose, if the land is located within an agricultural drainage well area which includes land used or suitable for use in farming.

“*Noncrop acres*” means a land tract as identified in the assessment schedule in the report of the classification commission adopted at public hearing pursuant to Iowa Code sections 468.44 through 468.46 which is not predominantly used for row crop production. Areas used for wetland mitigation shall not be considered in determining predominant land use.

“*Watershed area*” means the benefited land area of a drainage district.

27—30.21 to 30.29 Reserved.

27—30.30(159,161A,455H) Appropriations. Funds for the agricultural drainage wells—alternative drainage system assistance program are appropriated to the division of soil conservation, Iowa department of agriculture and land stewardship, beginning July 1, 1997. The following amounts, or so much thereof as is necessary, have been appropriated to the alternative drainage system assistance fund:

1. For the fiscal year beginning July 1, 1997, and ending June 30, 1998: \$1,500,000.
2. For the fiscal year beginning July 1, 1998, and ending June 30, 1999: \$1,500,000.

Moneys shall be used to provide financial assistance under the program and to defray expenses by the division in administering the program. However, not more than 1 percent of the fund may be used to defray administrative expenses of the division. Moneys which are unobligated at the end of the fiscal year shall not revert but will be available during subsequent fiscal years of the program. Moneys earned as income, including interest, from the fund shall remain in the fund until expended, notwithstanding Iowa Code section 12C.7.

27—30.31(159,161A,455H) Other funds. Funds for the agricultural drainage wells—alternative drainage system assistance program may be from moneys available to and obtained or accepted by the division or the state soil conservation committee from the United States or private sources for placement in the fund.

27—30.32 to 30.39 Reserved.

27—30.40(159,161A,455H) Allocation of funds. Funds will be allocated by the division for specific agricultural drainage well closure and alternative drainage system improvement projects. Allocations shall be 75 percent of the estimated cost of installing the alternative drainage system improvements as defined by Iowa Code section 468.3, except as limited by the total allocation provision of subrule 30.40(2). Allocations of financial assistance funds will be in accordance with either subrule 30.40(1) or subrule 30.40(2).

30.40(1) Allocation by a priority system based on contamination potential. Funds will be allocated by the division for project applications which meet all program requirements set forth in these rules and both of the following priority criteria:

- a. The proposed project provides for closure of agricultural drainage wells in watershed areas which include one or more designated agricultural drainage well area(s), and
- b. The proposed alternative drainage system will provide an alternative drainage outlet to allow for closing all agricultural drainage wells in the watershed area.

30.40(2) *Allocation for a single drainage improvement project which will allow for the closing of 30 or more agricultural drainage wells.* Funds will be allocated by the division for a single drainage improvement project which will provide alternative drainage outlets to allow for the closing of 30 or more agricultural drainage wells constructed by a drainage district established under Iowa Code section 468.22 on or after July 1, 1987, and prior to July 1, 1997, for which a construction contract for the project is successfully let prior to March 1, 1998.

The allocation under this subrule shall not exceed \$500,000 for the fiscal year beginning July 1, 1997, and ending June 30, 1998, and \$500,000 for the fiscal year beginning July 1, 1998, and ending June 30, 1999, for a total allocation not to exceed \$1 million.

30.40(3) *Application for fund allocation.* Application for fund allocation to a new drainage district shall be submitted to the division by the board of supervisors on behalf of eligible owners of land following receipt of petition to establish a drainage district pursuant to Iowa Code section 468.8 and before the hearing on establishment pursuant to Iowa Code section 468.22. Application for fund allocation to an existing drainage district shall be submitted to the division by the district board on behalf of eligible owners of land prior to the hearing on improvement pursuant to Iowa Code section 468.126. The application for fund allocation shall be in writing and shall identify:

- a. Approximate location and boundary of the watershed area served by the proposed project.
- b. Approximate watershed drainage area.
- c. Expected number of agricultural drainage wells to be closed.
- d. Location of any anaerobic lagoon or earthen manure storage basin required to obtain a construction permit by the department of natural resources.
- e. Preliminary cost estimate for the alternative drainage system.
- f. Anticipated project time line.
- g. Anticipated or actual date of establishment of the drainage district under Iowa Code section 468.22.

27—30.41 to 30.49 Reserved.

27—30.50(159,161A,455H) Eligibility. Financial assistance from the program will be limited by the criteria of this rule.

30.50(1) *Cost-share rate.* Cost-share payments from the fund shall not exceed 75 percent of the estimated cost or 75 percent of the actual cost of the project, whichever is less.

30.50(2) *Eligible costs.* Project costs eligible for financial assistance cost sharing from the fund are:

- a. Construction costs normally incidental to the costs of a drainage district including, but not limited to:
 - (1) Tile or channel mains.
 - (2) Laterals.
 - (3) Associated excavations, backfilling, tile line cradling materials, and junctions.
- b. Cost of improvements as defined by Iowa Code section 468.3 including, but not limited to:
 - (1) Administrative, legal and publication costs.
 - (2) Classification.
 - (3) Engineering design, construction inspection and contract administration.
 - (4) Financing costs.
 - (5) Damages.

- c. Costs of wetland mitigation required under federal law.
- d. Costs of connection lines from mains or laterals of the drainage district to the terminus of in-field drains at the existing wellheads of the agricultural drainage wells.
- e. Costs of closure and plugging of agricultural drainage wells in accordance with 567 IAC 39, Requirements for Properly Plugging Abandoned Wells, or by an alternative method approved by the department of natural resources.
- f. Costs for removal of agricultural drainage well cisterns in accordance with applicable requirements of the department of natural resources.

30.50(3) *Project design and construction.* The alternative drainage system of the drainage district shall be designed to meet standard engineering practice for drainage district improvements and be approved by the division. Construction shall be in accordance with the design and standard construction practice for drainage district improvements.

30.50(4) *Noncrop acres.* Noncrop acres within a designated agricultural drainage well area shall not be eligible to benefit from the program.

30.50(5) *Eligible persons.* A person who owns an interest in land within a designated agricultural drainage well area shall not be eligible to participate in the program, if the person is any of the following:

- a. A party to a pending legal or administrative action, including a contested case proceeding under Iowa Code chapter 17A, relating to an alleged violation involving an animal feeding operation as regulated by the department of natural resources, regardless of whether the pending action is brought by the department or the attorney general.

- b. Classified as a habitual violator for a violation of state law involving an animal feeding operation as regulated by the department of natural resources.

30.50(6) *Closure of agricultural drainage wells.* Closure of all agricultural drainage wells located within the watershed area served by the alternative drainage system of the drainage district is required for landowners to be eligible for financial assistance from the fund.

30.50(7) *Compliance with applicable statutes.* The alternative drainage system project of the drainage district shall be conducted in compliance with all applicable statutes, rules and requirements.

27—30.51 to 30.59 Reserved.

27—30.60(159,161A,455H) *Payment of financial assistance.* Financial assistance under the program will be distributed to eligible landowners by the drainage district, under the terms of a 28E agreement between the division and the drainage district.

30.60(1) *Distribution to eligible landowners under adopted classification.* Funds will be transferred by the division for all eligible costs of the project under the program to the drainage district for distribution to eligible landowners in accordance with the adopted classification of the district. The financial assistance shall be distributed to reduce the actual assessment to eligible landowners under the adopted classification.

30.60(2) *Time of payment.* Financial assistance funds shall be transferred to the drainage district to reimburse actual expenditures of the district. The fund transfer to the drainage district will be in accordance with the terms of the 28E agreement.

27—30.61 to 30.69 Reserved.

27—30.70(159,161A,455H) Compliance procedures and reviews. This rule establishes procedures for compliance actions taken by the division when it is found that program requirements or funding agreements are not being carried out.

30.70(1) Compliance with program requirements or funding agreements. Upon determination that program requirements or funding agreements have not been complied with, the division shall notify the affected landowners or drainage district of the lack of compliance and establish a schedule for achieving compliance with applicable requirements. In the event compliance is not achieved, no financial assistance from the program shall be provided. If financial assistance payments have previously been made, the division may order the recipient to pay back the division the total amount of the financial assistance payment in accordance with a schedule determined by the division.

30.70(2) Compliance reviews. A landowner or drainage district that has been determined ineligible for financial assistance or has been ordered to pay back to the division financial assistance payments because of lack of compliance with program requirements or funding agreements may seek review of the compliance action taken by the division. The affected landowner or drainage district may address concerns about the compliance action in writing to the director of the division. Upon receipt of such concern, the director shall review the actions taken and shall communicate the findings of the compliance review to the complainant. The director's decision following review of the actions taken shall constitute final agency action for purposes of invoking the judicial review provisions of Iowa Code chapter 17A.

These rules implement 1997 Iowa Acts, chapter 193, and chapter 215, section 16.

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CHAPTERS 31 to 39

Reserved