ARC 8633B

SOIL CONSERVATION DIVISION[27]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 161C.2(4), the Division of Soil Conservation hereby gives Notice of Intended Action to amend Chapter 12, "Water Protection Practices—Water Protection Fund," Iowa Administrative Code.

The proposed amendments change the supplemental allocation deadline from October 15 to September 1. The amendments also split the appropriated funds equally between projects and practices regardless of the total appropriation.

Any interested persons may make written suggestions or comments on the proposed amendments on or before April 13, 2010, at 4:30 p.m. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by E-mail to Margaret.Thomson@IowaAgriculture.gov.

These proposed amendments are subject to the Division's general waiver provisions.

These amendments are intended to implement Iowa Code chapter 161C.

The following amendments are proposed.

ITEM 1. Amend rule 27—12.40(161C) as follows:

27—12.40(161C) Appropriations. Resource enhancement and protection program, soil and water enhancement account funds are allocated to the water protection fund. Each year's allocation of water protection funds is divided equally between the water quality protection projects account and the water protection practices account ~~until the water quality protection account has received $1 million~~. ~~The balance of funds is deposited in the water protection practices account.~~

ITEM 2. Amend rule 27—12.51(161C) as follows:

27—12.51(161C) Allocation to soil and water conservation districts.

12.51(1) No change.

12.51(2) *Recall of funds.* Any funds allocated ~~to~~ in the current fiscal year that the districts ~~that~~ have not ~~been~~ spent or obligated by June 30 ~~and any funds that were obligated for projects for which construction has not been started during that time period~~ may be recalled by the division.

12.51(3) *Supplemental allocations.* The districts shall identify valid applications and cost estimates, if any, for supplemental allocations to the division by ~~October 15~~ September 1. The allocation to any district will be the lesser amount of:

a. and *b.* No change.

12.51(4) No change.

12.51(5) *Woodland, native grass and forbs fund.* Twenty-five percent of the funds and any additional appropriations for reforestation will be allocated to districts.

a. No change.

b. *Supplemental allocation.* The districts shall identify valid applications and cost estimates, if any, for supplemental allocations to the division by ~~October 15~~ September 1. The allocation to any district will be the lesser amount of:

(1) and (2) No change.

c. No change.

12.51(6) No change.

ITEM 3. Amend subrule 12.63(2) as follows:

12.63(2) *Practices installed on adjoining public lands.* Where water protection practices which benefit adjoining private lands are installed on public lands and costs of the installation are to be shared by the parties, state water protection practices funds may be used to cost-share only the private landowner cost of the water protection practice.

ITEM 4. Amend rule 27—12.72(161C) as follows:

27—12.72(161C) Eligible practices. Practices listed in this rule are eligible for water protection practices fund reimbursement.

12.72(1) *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.~~

12.72(2) ~~*Strip-cropping (wind)*~~ *Contour buffer strips.* ~~A strip of tall growing perennial vegetation within or adjacent to a field to reduce sediment damage and soil depletion caused by wind.~~

12.72(3) *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.~~

12.72(4) *Filter strips.* ~~A strip or area of vegetation for removing sediment, organic matter and other pollutants from runoff.~~

~~**12.72(5)** *Strip-cropping, contour.* Growing crops in a systematic arrangement of strips or bands on the contour to reduce water and wind 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.~~

~~**12.72(6)**~~ **12.72(5)** *Pasture and ~~hayland~~ hay 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.~~

~~**12.72(7)**~~ **12.72(6)** ~~*Restored or constructed*~~ *Constructed wetlands ~~in buffer systems~~.* ~~An area where hydric (wetland) vegetation and hydrology are established within or adjacent to a buffer system that filters pollutants from runoff or underground tile lines, or both.~~ ~~(~~Land enrolled in the Conservation Reserve Program, or other similar programs, is eligible, if this practice is not an allowable practice under that program.~~)~~

12.72(7) *Wetland restoration.* Land enrolled in the Conservation Reserve Program, or other similar programs, is eligible, if this practice is not an allowable practice under that program.

12.72(8) ~~*Bioengineering for stabilization of banks along waterways*~~ *Streambank and shoreline protection.* ~~A system designed to emphasize the use of live vegetation, natural materials, and structural practices to produce living, functioning systems to stabilize stream banks, reduce sedimentation, provide habitat, and filter pollutants. Bioengineering uses~~ The practice must be bioengineered using combinations of stream-side plantings or trees, other vegetation, structural practices such as modification of slopes, and installation of reinforcing materials and in-stream structures. ~~(~~Land enrolled in the Conservation Reserve Program, or other similar programs, is eligible, if this practice is not an allowable practice under that program.~~)~~

ITEM 5. Amend rule 27—12.73(161C) as follows:

27—12.73(161C) Eligible practices for priority water resource protection. Practices listed in this rule are eligible for water protection practice fund reimbursement only in those areas or instances approved in rule 27—12.75(161C).

12.73(1) *Grassed waterway.* ~~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.~~

12.73(2) *Grade stabilization structure.* ~~An earthen dam or embankment with a mechanical outlet (pipe conduit, drop spillway or chute outlet, etc.) to stabilize the flowline grade or control head cutting in a natural or constructed channel.~~

12.73(3) *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 referred to as broad based, narrow based, grassed backslope, basin, level, gradient and parallel are eligible for water protection practice fund reimbursement.~~

12.73(4) *Water and sediment control basin.* ~~A short earthen embankment with an underground outlet, constructed across the slope in minor water courses to reduce erosion and trap sediment.~~

12.73(5) *Diversion.* ~~A channel with a supporting ridge on the lower side constructed across the slope to conduct excess runoff water to a suitable outlet.~~

12.73(6) ~~*Animal waste management system*~~ *Waste storage facility.* ~~A planned system to correct existing animal waste management problems in which all necessary components are installed for managing liquid and solid waste, including runoff from concentrated waste areas from an existing animal feeding operation, in a manner that does not degrade soil or water resources.~~ Cost-sharing under this practice is not authorized for:

a. Portable pumps and pumping equipment.

b. Waste disposal equipment.

c. Building, modification of a building, that portion of the animal waste structure that serves as part of the building, or its foundation.

d. That portion of the cost of animal waste control structures attributed to expansion of an animal waste management system.

12.73(7) *Stormwater quality best management practices (BMPs).* A technique, measure, or structural control that is used for a given set of conditions to manage the quantity and improve the quality of stormwater runoff in the most cost-effective manner. BMPs can be either:

a. Nonstructural BMPs, which include a range of pollution prevention, education, or institutional management and development practices designed to limit the conversion of rainfall to runoff and to prevent pollutants from entering runoff at the source of runoff generation; or

b. Structural BMPs, which are engineered and constructed systems that are used to treat the stormwater at either the point of generation or the point of discharge to either the storm sewer system or to receiving waters (e.g., detention ponds or constructed wetlands).

ITEM 6. Amend subrule 12.77(1) as follows:

12.77(1) *Cost-share rates.* Cost-share rates for practices designated in rule 27—12.72(161C) shall be 50 percent of the eligible or estimated cost of installation, whichever is less, except for ~~strip-cropping contour~~ contour buffer strips and field borders. Cost-share rates for 12.72(2), contour buffer strips, and 12.72(3), field borders~~, and 12.72(5), strip-cropping contour~~, shall be a one-time payment of 50 percent of the eligible or estimated cost of installation, whichever is less, up to $25 per acre.

ITEM 7. Amend rule 27—12.82(161C) as follows:

27—12.82(161C) Eligible practices. Land enrolled in the Conservation Reserve Program is ~~only~~ eligible for woodland establishment, management and protection practices and is also eligible for native grass and forb establishment. All practices listed in this part are available to all other eligible landowners within Iowa soil and water conservation districts. All practices listed below are permanent.

12.82(1) *Windbreaks.* ~~A belt of trees or shrubs established or restored next to an occupied structure.~~ A windbreak must meet either NRCS Standard 380-Windbreak/shelterbelt establishment or NRCS Standard 650-Windbreak/shelterbelt renovation.

12.82(2) *Field windbreak.* ~~A belt of trees or shrubs established or restored, within or adjacent to a field.~~ A windbreak must meet either NRCS Standard 380-Windbreak/shelterbelt establishment or NRCS Standard 650-Windbreak/shelterbelt renovation.

12.82(3) ~~*Timber*~~ *Forest stand improvement.* ~~To increase the growth and quality of forest stands and improve wildlife habitat.~~ Minimum eligible area is five acres.

12.82(4) *Tree planting.* ~~To establish a stand of trees for timber production and environmental improvement.~~ Minimum eligible area is three acres.

12.82(5) *Site preparation for natural regeneration.* ~~To establish a stand of forest trees through natural regeneration for timber production and environmental improvement.~~ Minimum eligible area is three acres.

12.82(6) *Riparian forest buffer.* ~~To establish an area of trees or shrubs, or both, located adjacent to and up-gradient from water bodies.~~

12.82(7) *Rescue treatments.* ~~To rescue plantations from conditions that would threaten the adequate survival or quality of the plantation if not controlled.~~ Minimum eligible area is three acres.

12.82(8) *Prescribed grazing.* ~~The controlled harvest of vegetation with grazing or browsing animals that is managed with the intent to achieve a specified objective.~~ The practice must include a minimum of two paddocks of native species grasses.

12.82(9) *Conservation cover.* ~~Establishing and maintaining perennial vegetative cover on land.~~

ITEM 8. Amend rule 27—12.83(161C) as follows:

27—12.83(161C) Practice standards and specifications. Soil and water conservation practices shall meet Natural Resources Conservation Service conservation standards and specifications where applicable. These standards may be accessed through the electronic field office technical guide at http://efotg.nrcs.usda.gov/efotg_locator.aspx?map=IA.

Tree planting, ~~timber~~ forest stand improvement, site preparation for natural regeneration and rescue treatment standards may be accessed through the department of natural resource's forestry technical guide found at http://www.iowadnr.com/forestry/pdf/techguide.pdf.

Standards and specifications are also available in hard copy in the district office where the practice will be implemented. These specifications and the general conditions, rule 27—10.81(161A), shall be met in all cases. To the extent of any inconsistency between the general conditions and the specifications, the general conditions shall control.

ITEM 9. Amend rule 27—12.84(161C) as follows:

27—12.84(161C) Cost-share rates. The following cost-share rates shall apply for eligible practices designated in rule 27—12.82(161C). The use of state cost-share funds alone or in combination with other public funds shall not exceed the limits established by these rules.

12.84(1) *Windbreaks.* 75 percent of the ~~actual~~ eligible or estimated cost, whichever is less, not to exceed $1500 for the total cost of the establishment or restoration of the windbreak.

12.84(2) *Field windbreaks.* 75 percent of the ~~actual~~ eligible or estimated cost, whichever is less, not to exceed $450 per acre.

12.84(3) ~~*Timber*~~ *Forest stand improvement.* 75 percent of the ~~actual~~ eligible or estimated cost, whichever is less, not to exceed $120 per acre for prescribed woodland burning, thinning, pruning crop trees, or releasing seedlings or young trees.

12.84(4) *Tree planting.*

a. 75 percent of the ~~actual~~ eligible or estimated cost, whichever is less, not to exceed $450 per acre, for tree planting including the following:

(1) Establishing ground cover,

(2) Trees and tree-planting operations,

(3) Weed and pest control,

(4) Mowing, disking, and spraying.

b. 75 percent of the ~~actual~~ eligible or estimated cost, whichever is less, not to exceed $150 per acre for woody plant competition control.

12.84(5) *Site preparation for natural regeneration.* 75 percent of the ~~actual~~ eligible or estimated cost, whichever is less, not to exceed $120 per acre of site preparation.

12.84(6) *Riparian forest buffer.* 75 percent of the ~~actual cost~~ eligible or estimated cost, whichever is less.

12.84(7) *Rescue treatment.*

a. 75 percent of the ~~actual~~ eligible or estimated cost, whichever is less, not to exceed $60 per acre to establish alternate cover for competition control.

b. A one-time payment of 75 percent of the ~~actual~~ eligible or estimated cost, whichever is less, not to exceed $15 per acre to control damaging rodent populations.

c. 75 percent of the ~~actual~~ eligible or estimated cost, whichever is less, not to exceed $450 per acre, for plantation replanting including the following:

(1) Establishing ground cover,

(2) Trees and tree planting,

(3) Weed control.

12.84(8) ~~*Planned*~~ *Prescribed grazing* ~~*systems*~~. 75 percent of the ~~actual cost~~ eligible or estimated cost, whichever is less. Systems must include at least two paddocks of native species grasses. Development of a water source is not eligible. Does not include boundary fences or road fences.

12.84(9) *Conservation cover.* 75 percent of the ~~actual cost~~ eligible or estimated cost, whichever is less.

12.84(10) *Fencing systems.* Fencing systems used to implement or protect a conservation practice described in rule 27—12.82(161C) are eligible for the lesser of 75 percent of the ~~actual cost~~ eligible or the estimated cost. The fencing costs cannot exceed $14 per rod for permanent fencing or $5 per rod for temporary electric fencing. Fences along roads or land boundaries are not eligible.