

CHAPTER 30
AGRICULTURAL DRAINAGE WELLS—ALTERNATIVE DRAINAGE SYSTEM
ASSISTANCE PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

27—30.1 to 30.9 Reserved.

27—30.10(161A,460) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee in implementing the agricultural drainage wells — alternative drainage system assistance program. 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.

[ARC 2192C, IAB 10/14/15, effective 11/18/15; ARC 3243C, IAB 8/2/17, effective 9/6/17]

27—30.11(161A,460) 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.

[ARC 2192C, IAB 10/14/15, effective 11/18/15]

27—30.12 to 30.19 Reserved.

27—30.20(161A,460) 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 and water quality 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.

[ARC 2192C, IAB 10/14/15, effective 11/18/15]

27—30.21 to 30.29 Reserved.

27—30.30(161A,460) Appropriations. 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.

[ARC 2192C, IAB 10/14/15, effective 11/18/15]

27—30.31(161A,460) 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 and water quality committee from the United States or private sources for placement in the fund.

[ARC 2192C, IAB 10/14/15, effective 11/18/15; ARC 3243C, IAB 8/2/17, effective 9/6/17]

27—30.32 to 30.39 Reserved.

27—30.40(161A,460) 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.

30.40(1) and **30.40(2)** Rescinded IAB 10/14/15, effective 11/18/15.

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.

[ARC 2192C, IAB 10/14/15, effective 11/18/15]

27—30.41 to 30.49 Reserved.

27—30.50(161A,460) Eligibility. Financial assistance from the program will be limited by the criteria of this rule.

30.50(1) *Cost-share rate.* Except for the cost of wetland restoration projects with permanent easements, 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.

g. Costs for the purchase of permanent easements for the wetland restoration if the easements are more cost-effective than the construction of alternative drainage systems and all directly impacted landowners agree to grant permanent easements.

h. Construction costs for wetland restoration projects with permanent easements including, but not limited to:

- (1) Tile modifications.
- (2) Installation of water level maintenance structures.
- (3) Associated excavation, grading and seeding activities.

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

30.50(4) *Easement purchases.* For projects where wetland restoration is completed, a permanent easement restricting active disturbance of the easement area including cropland and pasture uses shall be granted to the applicable soil and water conservation district. The value of the easement is determined by using the average farmland value per acre for all soil types as determined by the most recently published county land value survey developed by Iowa State University adjusted by the value of any existing easements on the land.

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.

[ARC 2192C, IAB 10/14/15, effective 11/18/15; ARC 3839C, IAB 6/6/18, effective 7/11/18]

27—30.60(161A,460) 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.

[ARC 2192C, IAB 10/14/15, effective 11/18/15]

27—30.61 to 30.69 Reserved.

27—30.70(161A,460) 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.

[ARC 2192C, IAB 10/14/15, effective 11/18/15]

These rules implement Iowa Code chapter 460.

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[Filed ARC 3839C (Notice ARC 3730C, IAB 4/11/18), IAB 6/6/18, effective 7/11/18]