

CHAPTER 22
WILDLIFE HABITAT ON PRIVATE LANDS PROMOTION PROGRAM AND
HABITAT AND PUBLIC ACCESS PROGRAM

[Prior to 12/31/86, Conservation Commission[290] Ch 22]

Part 1

WILDLIFE HABITAT ON PRIVATE LANDS PROMOTION PROGRAM

571—22.1(456A,483A) Purpose. The purpose of these rules is to designate procedures by which revenues from the state fish and game protection fund will be used to assist landowners in establishing wildlife habitat on private lands. These rules authorize department staff to work with conservation organizations, educational groups, and private landowners to improve wildlife habitat on private land.

571—22.2(456A,483A) Authority. Iowa Code section 456A.19 authorizes that the state fish and game protection fund shall be expended solely in carrying on the activities embraced in the fish and wildlife division. Iowa Code section 483A.25 directs the department to spend 60 percent of the revenue derived from an increase in the hunting license fee to fund a pheasant and quail restoration program. The natural resource commission, hereinafter referred to as the commission, acting through its director, will enter into agreements with landowners and conservation groups to fulfill the requirements of the law.

571—22.3(456A,483A) Project scope. This program will provide cost-sharing assistance to landowners to establish farmstead and feedlot shelterbelts, temporary winter habitat plots, and habitat practices designed to implement the pheasant and quail restoration program throughout the state. The purpose of these practices is to assist Iowa's landowners with developing and enhancing wildlife habitat on private lands in cooperation with other state, federal, and county agencies as well as conservation organizations.

571—22.4(456A,483A) Availability of funds. The amount of moneys available at any time will be determined by revenues received by the department and by matching contributions from conservation groups.

22.4(1) Allotments for this program. Funds available for assisting landowners shall be in the department's budget in accordance with legislative appropriations. Funds will be made available during a fiscal year of July 1 to June 30.

22.4(2) Matching funds. To maximize the amount of wildlife habitat actually established, the department may accept contributions from any governmental or private conservation group to help establish shelterbelts or winter habitat demonstration areas or habitat practices designed to implement the pheasant and quail restoration program. Department funds may also be used to match other funding sources or incentive programs.

571—22.5(483A) Winter habitat areas. This rule delineates eligibility and procedures for establishing temporary winter cover and food plots.

22.5(1) Eligibility. The program is available statewide.

To be eligible for cost assistance, individual landowners must enter into a written agreement with the department specifying the obligations of both parties.

22.5(2) Applications for assistance. Applications will be accepted only from those eligible as noted above.

a. Applications must be submitted on forms furnished by the department.

b. Applications and contracts must be received by April 15 to provide adequate time for site inspection and plot design. The application period may be extended indefinitely, or until all available funds have been committed. Landowners will be contacted within 30 days as to their acceptance or rejection.

22.5(3) Project review and selection.

a. Projects will be reviewed by the department wildlife biologist, who will then recommend that the commission enter into agreements with the successful applicants.

b. Rescinded IAB 1/24/90, effective 2/28/90.
 c. Winter habitat areas will be selected on the basis of site suitability, the availability of other winter cover, and the availability of nesting cover to determine those projects with the greatest chance of benefiting wildlife populations.

d. Rescinded IAB 1/24/90, effective 2/28/90.

22.5(4) Contract agreements. The director is authorized to enter into agreements with landowners to carry out the purposes of this program.

a. Agreement forms will be provided by the department. They shall explicitly state the terms of the agreement including, but not limited to, plot size, configuration, crop types, ground preparation, and weed control and cultivation practices. Terms of the agreement and copies of the contract will be available from the department for examination.

b. Cost-sharing assistance will not be provided unless an agreement has been signed by both parties.

c. Contracts may be amended by mutual agreement of both parties.

22.5(5) Specifications. Winter habitat plots must conform to the following guidelines to be eligible for cost assistance:

a. Individual winter habitat plots must be at least three acres if they are located next to suitable winter cover; five acres if other winter cover is lacking or inadequate. Larger plots may be specified by the department wildlife biologist.

b. Individual winter habitat plots will be designed by the department wildlife biologist to fit individual habitat situations.

c. One, or a combination of the following practices, will be allowed:

- (1) Standing corn left throughout the winter.
- (2) Standing corn in combination with grain sorghum left throughout the winter.
- (3) Forage sorghum and grain sorghum left throughout the winter.
- (4) Forage sorghum in combination with standing corn left throughout the winter.

d. Landowners must follow site preparation, seeding and cultivation practices similar to that used in normal agricultural production.

e. Winter habitat plots must produce a crop similar to that in fields under normal crop production practices.

f. No grazing, mechanical disturbance, or harvesting will be permitted until after March 15 of the final contract year unless specified in the design.

22.5(6) Cost-share rates. The department will provide cost-sharing assistance for winter habitat plots at the following rates, except when a lesser amount is negotiated with a landowner.

The department will enter into Cooperative Wildlife Habitat Agreements with landowners, which stipulate the rates that will be paid for various habitat practices. These “flat rates” will be developed using information collected from the ISU Extension Service custom rate guidelines, flat rates used by USDA for similar practices, and input from local conservation professionals.

a. to d. Rescinded IAB 1/8/03, effective 2/12/03.

22.5(7) Reimbursements. Cost assistance payments will be made after March 15 after inspection by the department wildlife biologist.

Reimbursement shall not be paid unless all terms of the contracts have been met.

571—22.6(456A,483A) Shelterbelts. This rule delineates eligibility and procedures for establishing shelterbelts for winter wildlife habitat.

22.6(1) Eligibility. The program is available statewide.

a. To be eligible for cost assistance, landowners must enter into a written agreement with the department specifying the obligations of both parties.

b. Rescinded IAB 1/24/90, effective 2/28/90.

c. Assistance for replacement of trees or shrubs suffering normal mortality in a shelterbelt previously cost-shared by the department will be available in any county currently or previously eligible subject to conditions in subrule 22.6(6), paragraph “c.”

22.6(2) Application for assistance. Applications will be accepted only from those eligible as noted above.

- a. Applications must be submitted on forms furnished by the department.
- b. Applications must be submitted by February 15. The application period may be extended until all available funds have been committed.

22.6(3) Project review and selection. Project applications will be reviewed separately for each county to determine the projects which will be eligible for cost assistance.

a. Projects will be reviewed by the department wildlife biologist and the soil conservation service district conservationist for each county, who will then recommend that the commission enter into agreements with the successful applicants.

b. Projects will be selected on the basis of site suitability, location within the county, and the availability of nearby wildlife habitat to determine those projects with the greatest chance of benefiting wildlife populations.

c. Rescinded IAB 1/24/90, effective 2/28/90.

d. Priority for rating will be given in the following order:

(1) Establishment of new shelterbelts or enlargement of existing shelterbelts in which department funds are used to supplement other funding sources.

(2) Establishment of new shelterbelts or enlargement of existing shelterbelts using only department funding.

(3) Renovations of cost-shared shelterbelts which meet the criteria of subrule 22.6(5), paragraph "b."

(4) Enlargements of previously cost-shared shelterbelts above minimum specifications, subject to limitations in subrule 22.6(5), paragraph "c," subparagraphs (1) to (4).

22.6(4) Contract agreements. The director is authorized to enter into agreements with landowners in order to carry out the purposes of this program.

a. Agreement forms will be provided by the department. They shall explicitly state the terms of the agreement, including but not limited to, requirements for shelterbelt size, configuration, species composition of trees, ground preparation, weed control and management in subsequent years. Terms of the agreement and copies of the contract will be available from the department for examination.

b. Cost-sharing assistance will not be provided unless an agreement has been signed by both parties prior to the inception of the project.

c. Contract periods will not be approved for any term less than ten years in duration.

d. Contracts may be amended by mutual agreement of both parties.

22.6(5) Specifications and guidelines. Shelterbelts must conform to the following specifications to be eligible for cost-share assistance.

a. New shelterbelts must meet at least the following minimum guidelines:

(1) Eight rows of planting stock with at least 100 feet per row in an L-shaped shelterbelt, 150 feet per row in a unidirectional block.

(2) Two rows of shrubs or trees windward, followed by a minimum 50-foot snowcatch leeward of the first two rows. The snowcatch may be used to plant nesting cover, food plots, Christmas tree plantations or may be cropped.

(3) Two rows of shrubs leeward of the snowcatch, followed by four rows of dense conifers.

(4) Additional rows of dense shrubs may be planted interior to conifers for screening. See subrule 22.6(5), paragraph "c," subparagraphs (1) to (4) for restrictions on additional rows.

(5) Species of conifers, shrubs, and deciduous trees which may be grown in shelterbelts will be designated by the department, as well as size of stock and conditions of culture.

(6) Shelterbelts must be at least 50 feet from an occupied residence.

b. Renovations or improvements of existing shelterbelts not previously cost-shared must meet at least minimum specifications for new shelterbelts outlined in paragraph "a" of this subrule.

c. Maximum specifications for which cost-sharing will be allowed are as follows:

(1) Fourteen rows of planting stock with a maximum of 400 feet per unidirectional row.

(2) For each additional row over eight, one row must be planted with an approved conifer.

(3) Snowcatch requirement is dropped for shelterbelts of at least ten rows and meeting all other requirements in subrule 22.6(5), paragraph "a," subparagraphs (1) to (6) and paragraph "c," subparagraph (2).

(4) In a 14-row shelterbelt, one row of deciduous trees may be black walnut for eventual harvest.

d. Planning and design for newly established shelterbelts, renovations, and enlargements, and replacement of trees in a previously cost-shared shelterbelt, and deviations from the listed specifications, must be approved by the department's wildlife biologist and may require consultation with the department's district forester and U.S. Department of Agriculture Soil Conservation Service (SCS) district conservationist.

e. Planting sites should be prepared with seedbed conditions the same as for corn. Sod planting or other exceptions may be allowed only by the department wildlife biologist, and may require consultation with the district forester and SCS district conservationist.

f. The following maintenance requirements are in effect for the contract period:

(1) All competing vegetation must be controlled within three feet of each tree and shrub for the first three years of the contract. Control may be by chemicals, mulching, or mechanical means.

(2) Plantings must be protected from livestock, poultry, and rodents by repellents, fencing, trapping, or other effective means.

(3) Cooperators must use whatever means possible to protect plantings from herbicide drift from adjacent fields.

22.6(6) Cost-sharing rates. The department will provide cost-sharing assistance during the first year of the contract to establish new shelterbelts or renovate existing shelterbelts to bring them to minimum standards for size, composition, and configuration.

a. New establishments and enlargements. During the initial establishment year for new shelterbelts and enlargements of existing shelterbelts, the department will pay 75 percent of the cost of establishment, not to exceed \$1600 per eight-row planting.

(1) Additional rows over the minimum will be cost-shared at the same rate with a ceiling limit of \$200 per additional row.

(2) Total rows cost-shared will not exceed 14.

b. Upon mutual agreement of the cooperator and the department, tree planting by the department or its designee may be substituted for all or part of the cost-sharing assistance. Standardized rates for labor and machinery operation will be used to calculate the value of the tree planting operation when determining cost-share payments.

c. Renovations and restorations. Upon recommendation by department wildlife biologists, cost-sharing of tree replacement is permissible where age, disease, drought, insect, or mammal damage has reduced the effectiveness of existing shelterbelts.

(1) Cost-sharing for these reasons will be at 50 percent of planting stock costs not to exceed \$1000. All minimum specifications must be met.

(2) If renovation is needed due to cooperator neglect, no cost-sharing will be allowed.

d. Limitations to total cost-share assistance do not preclude use of cost-sharing funds from other governmental entities or private conservation groups to defray cost to the landowner. Where more than one cost-sharing entity is involved, the total cost-share to the landowner cannot exceed 100 percent of the cost of establishment, enlargement, or renovation.

e. If funds are limited, cooperators are limited to one department cost-shared shelterbelt within a three-year period, except for renovations as listed in subrule 22.6(6), paragraph "c."

f. Three years following establishment of an eight-row shelterbelt, cost-sharing to enlarge the shelterbelt will be available subject to the following limitations:

(1) Established rows must exhibit reasonable growth rates and good care by the cooperator.

(2) Added rows will be considered a new planting under guidelines existing at that time.

(3) Such enlargements are subject to priorities established in subrule 22.6(3), paragraph "d," subparagraphs (1) to (4).

22.6(7) Reimbursements. Cooperators shall submit billings for reimbursements on forms provided by the department.

- a. Billings shall be submitted prior to September 1 each year.
- b. Billings shall include documentation of costs incurred for planting stock.
- c. Reimbursements will not be made unless the landowner has fulfilled obligations as specified in the contract.
- d. Billings will be approved or disapproved by the wildlife biologist after inspection of the project.

571—22.7(456A,483A) Pheasant and quail restoration practices. This rule delineates eligibility and procedures for establishing pheasant and quail restoration practices.

22.7(1) Eligibility. The program is available statewide. To be eligible for cost assistance, landowners must enter into a written agreement with the department specifying the obligations of both parties.

22.7(2) Applications for assistance. Applications will be accepted only from those who are eligible as noted above.

- a. Applications must be submitted on forms furnished by the department.
- b. Applications and contracts must be received by June 1 to provide adequate time for site inspection and practice design. The application period may be extended indefinitely, or until all available funds have been committed. Landowners will be notified within 30 days of their acceptance or rejection.

22.7(3) Project review and selection.

a. Projects will be reviewed by the department wildlife biologist, who will then recommend that the commission enter into agreements with the successful applicants.

b. Projects will be selected on the basis of habitat potential, site suitability, priority locations, and other habitat factors, to determine those projects with the greatest chance of benefiting wildlife populations.

22.7(4) Contract agreements. The director is authorized to enter into agreements with landowners to carry out the purposes of this program.

a. Agreement forms will be provided by the department, and they shall explicitly state the terms of the agreement including restoration practices.

b. Cost-sharing assistance will not be provided unless an agreement has been signed by both parties.

c. Contracts may be amended by mutual agreement of both parties.

22.7(5) Restoration practices. Pheasant and quail restoration practices will be guided by the Natural Resources Conservation Service (NRCS) field office technical guide (FOTG).

a. Approved practices include: brush management (314), conservation cover (327), critical area planting (342), early successional development/management (647), forage harvest management (511), pasture and hay planting (312), prescribed burning (338), prescribed grazing (528A), tree/shrub establishment (612), upland wildlife habitat management (645), wetland enhancement (659), wetland restoration (657), wetland wildlife habitat management (644).

b. Deviation from these practices or new practices must be approved by a department wildlife biologist.

571—22.8(456A,483A) Cost reimbursement. Whenever a landowner has been found to be in violation of a contract specified in this rule, the department may cancel the contract and the landowner shall reimburse the state for the full amount of any cost-share payments received. The requirement and procedure for recovering the cost-share payments shall be explained in the contract.

571—22.9(456A,483A) Wildlife habitat enhancement on public and private lands. The department's primary goal for the wildlife bureau's seed harvest program is to provide an adequate supply of native plant materials to meet the diverse seeding requirements of state and federal land that is owned or managed by the department.

22.9(1) Private land. The department may enter into agreements to meet the challenge of providing native plant materials to conservation groups, educational groups, and private landowners for use in promoting and establishing wildlife habitat and conservation plantings in Iowa. These materials

include, but are not limited to, seed and seedlings of prairie plants, grains, and agricultural crop seeds. All native prairie plant materials provided to Iowa landowners will be purchased through these agreements. Landowners who receive this seed will be required to enter into a cooperative habitat development agreement with the department. This agreement shall limit the landowner to utilizing the seed for development of wildlife habitat only and explicitly prohibit the landowner from harvesting or producing seed for any purpose other than providing wildlife habitat.

22.9(2) Public land. The department's seed harvest program will harvest, process, and distribute native plant materials for the purpose of improving wildlife habitat on department-managed land in Iowa. Native plant materials include prairie grasses and forbs and mast crops from trees. In addition, native plant materials may be provided to educational groups (schools) or conservation groups who want to carry out educational, environmental or demonstration plantings that will promote prairies and wildlife habitat. These materials will be limited to \$300 or less in value and must be used for providing wildlife habitat or demonstrating the use of native plant materials. These materials provided to groups will include a marketing disclaimer which prohibits the materials from being used for seed source by the receiving group. The department may enter into agreements with conservation partners or governmental agencies to utilize prairie seed and seedlings as a matching source of in-kind value to secure additional funding or land acquisition, providing all seed materials remain on lands owned, managed or to be acquired by the department.

The rules in Part 1 are intended to implement Iowa Code sections 483A.3 and 456A.16.

Part 2
HABITAT AND PUBLIC ACCESS PROGRAM

571—22.10(456A,483A) Purpose and authority. These rules set forth the procedures to open private lands to public hunting, while providing grant funds to create, manage, and enhance wildlife habitat. Pursuant to Iowa Code section 456A.19, all funds deposited into the state fish and game protection fund shall be expended solely in carrying on the activities of the fish and wildlife division. The department assesses a wildlife habitat fee in conjunction with each resident and nonresident hunting license sold in Iowa, and this fee is deposited into the state fish and game protection fund. At least one dollar from every wildlife habitat fee is required to be spent in a manner that increases landowner participation in federally funded conservation programs that encourage opportunities for recreational hunting on private land.

[ARC 9496B, IAB 5/4/11, effective 6/8/11]

571—22.11(456A,483A) Definitions. For the purpose of this part:

“*Commission*” means the natural resource commission.

“*Department*” means the department of natural resources.

“*Program*” means the habitat and public access program.

[ARC 9496B, IAB 5/4/11, effective 6/8/11]

571—22.12(456A,483A) Eligibility. In order to be eligible for this program, an applicant shall:

1. Have land in Iowa that already contains wildlife habitat or be willing to allow development of wildlife habitat;
2. Enter into an agreement with the department; and
3. Allow public access for hunting without charge on at least 40 acres.

[ARC 9496B, IAB 5/4/11, effective 6/8/11]

571—22.13(456A,483A) Application procedures. Applications will be accepted only from those eligible pursuant to rule 571—22.12(456A,483A).

22.13(1) Applications. Applications must be submitted on forms furnished by the department. Applications and agreements must be received by June 1 to provide adequate time for signage on the property and to ensure that the public is aware the area is open to public hunting. However, at the department's discretion and dependent upon the availability of funds, the application period may be extended. Landowners will be notified in writing within 30 days of submission of an application whether they have been accepted into the program.

22.13(2) Availability of funds. Funds available for this program are provided through a Voluntary Public Access and Habitat Incentive Program Grant awarded to the department by the U.S. Department of Agriculture as well as from wildlife habitat fees.

a. Funds available for assisting landowners shall be in the department's budget in accordance with legislative appropriations. Funds will be made available during a fiscal year of July 1 to June 30.

b. To maximize the amount of wildlife habitat actually established, the department may accept contributions from any governmental agency or private conservation group to support habitat practices designed to implement the habitat and public access program. Department funds may also be used to match other funding sources or incentive programs.

22.13(3) Project review and selection.

a. Projects will be reviewed by the site's regional department wildlife biologist, who, based on the ranking criteria listed in paragraph 22.13(3) "b," will recommend that the commission enter into an agreement with successful applicants.

b. Projects will be selected based on the ranked scoring criteria in the application, which prioritize sites with the greatest chance of benefitting wildlife populations and providing adequate recreational hunting opportunities. The criteria include, but are not necessarily limited to: the site's habitat potential; site suitability; priority locations; and other relevant habitat and hunting access factors.

[ARC 9496B, IAB 5/4/11, effective 6/8/11]

571—22.14(456A,483A) Agreements. The commission shall enter into "Iowa Management and Access Program Agreements," version 4-15-11 that is located on the department's Web site at http://www.iowadnr.gov/wildlife/privatelands/mgt_access.html as well as through the department's central office, and incorporated by reference herein, with approved landowners to carry out the purposes of this program.

22.14(1) Agreement forms shall be provided by the department. The agreement shall explicitly state the terms of the agreement including, but not limited to: the location and size of the habitat improvement; the location and size of the area open for public access hunting; the habitat improvement practices to be completed, including the standards by which the practices shall be accomplished; the schedule for completion and length of time the site shall be open for public recreational hunting; and the reimbursement rate for breaches or early terminations of the agreement as outlined in rule 571—22.15(456A,483A).

22.14(2) Grant funds. Habitat development money is only available if an agreement has been signed by both parties. No funds shall be paid directly to the landowner, but rather shall go to a habitat development contractor hired by the department. This is not a cost-share program; the department is solely responsible for all habitat development cost.

22.14(3) Agreements may be amended by mutual agreement of both parties.

22.14(4) Enrolled lands are subject to game management area hunting rules as contained in 571—Chapter 51. Access and boundary signs shall be placed and maintained on enrolled lands by the department, including "No Hunting in Standing Crops" signs at the landowner's discretion.

22.14(5) Nothing in this program or in the agreement alters or waives the liability protection afforded to private landowners opening their lands up to public recreation under Iowa Code chapter 461C. Access given pursuant to a signed agreement shall not constitute a "charge" as defined in Iowa Code section 461C.2. As stipulated in Iowa Code section 461C.4, landowners who participate in this program do not, by opening up their lands to public recreation, do any of the following:

a. Extend any assurance that the premises are safe for any purpose;

b. Confer upon such person the legal status of an invitee or licensee to whom the duty of care is owed;

c. Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

[ARC 9496B, IAB 5/4/11, effective 6/8/11]

571—22.15(456A,483A) Cost reimbursement. Whenever a landowner has been found to be in violation of an agreement as specified in Part II of this chapter, or terminates the agreement early, the

landowner shall reimburse the state a prorated amount of the value of wildlife habitat improvement work completed on the property divided by the entire agreement period multiplied the unfulfilled years of the agreement, e.g., $(\text{Total Dollars} \div \text{Total Years}) \times \text{Unfulfilled Years} = \text{prorated amount owed}$. Additionally, the landowner may be assessed early termination penalties that the department may be required to pay a contractor performing the wildlife habitat improvement work on the property.

[ARC 9496B, IAB 5/4/11, effective 6/8/11]

The rules in Part 2 are intended to implement Iowa Code sections 456A.19 and 483A.3B(3) "c"(1).

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¹ Effective date of rule 22.7 delayed 70 days by the Administrative Rules Review Committee at its August 21, 1986, meeting.