

Guidelines for filing Soil Loss Complaints under Code of Iowa Chapter 161A (Iowa Sediment Control Law)

Step 1. Neighbors discuss mutual erosion problem.

Step 2. If problem is not resolved, a written complaint can be sent to the West Pott SWCD Commissioners. This action triggers the use of section 161A.47 of the Iowa Code.

Complaint letter must include:

- Description of property being damaged
- Location of property being damaged
- Signature of titleholder of record or person actually living or working the property, such as a tenant
- Statement that excessive erosion is occurring upon the offending party's land and that sediment damage is occurring
- Documented attempts to solve the problem with neighbor prior to filing complaint
- Permission for SWCD Commissioners to enter upon property to investigate complaint

Step 3. The SWCD Commissioners will investigate the facts and circumstances surrounding the complaint to determine if the complaint does warrant further investigation. The Commissioners will request technical assistance from NRCS Conservationist.

Step 4. Next the Commissioners will inspect the property to verify sediment damage. Inspection will be made in a timely manner after receiving the complaint.

Step 5. A notice of entry letter will be sent by registered certified mail to the party's against whom the complaint is filed asking for consent to examine their property. The occupant must have 10 days notice prior to inspections.

Step 6. If the findings from the investigation support the complaint and demonstrate that the soil loss limits have been exceeded and sediment damage has occurred on the complainant's property, the commissioners have established authority to issue an Administrative Order. The commissioner and the landowners can reach a voluntary agreement prior to the issuance of an Administrative Order in many cases.

Step 7. Prior to the issuance of the Administrative Order the complaint may be withdrawn or modified at the discretion of the complaining party. After the Administrative Order is served the complaining parties may no longer change their complaint.

Step 8. The Administrative Order will be drafted stating that soil loss is occurring in excess of the limits specified in the districts regulations and that it must be corrected within the time limits stated.

Step 9. A copy of the Administrative Order will be served upon the titleholders of record and occupant. It may be delivered by the sheriff or by registered certified mail.

Step 10. The Administrative Order will be recorded at the County Records office.

Step 11. If the offending party fails to comply with the Administrative Order in a timely fashion, the Commissioners may work through the Division of Soil Conservation and request assistance from the Office of Attorney General.

Note: In the case that sediment is delivered to the complainants land from an adjacent construction project or similar undertaking as a result of the removal of all or a major portion of vegetation or manmade cover exposing bare soil to water or wind, the Administrative Order will require a time, no later than 5 days after the service or mailing of the order to the offending party, for the commencement of work necessary to control erosion. Deadline no later than 30 days after the service or mailing of the order, for the completion of the improvement will be required.