

SECTION 1 Lenglade County Soil and Water Conservation Standard For the Farmland Preservation Program

Section I. Authority, Purpose and Applicability

- A. This policy is established by the Lenglade County Land Conservation Committee pursuant to ss. 92.104, 92.105, Wis. Stats., and ATCP 50.16, Wis. Adm. Code, and related guidelines adopted by the Wisconsin Land and Water Conservation Board under s. 92.105(2). It provides for soil and water conservation standards to be met and procedures to be followed by participants in the Wisconsin Farmland Preservation Program. Conformance with these standards and procedures will be necessary for landowners to establish and maintain eligibility for farmland preservation tax credits under Subchapter IX of Chapter 71 and ss. 92.104 and 92.105, Wis. Stats.

- B. These standards shall apply to all landowners who claim a farmland preservation tax credit for which they are eligible because their land is located in a district zoned exclusive agricultural use. In cases where the tax credits are based on the landowner participating under a farmland preservation agreement, the landowner is subject to the soil and water conservation standards applicable at the time the agreement was submitted to the county clerk after being signed by the landowner, unless the landowner agrees to adopt the updated standards. These standards are effective when approved by and Land and Water Conservation Board and adopted by the Land Conservation Committee.

Section II Definitions.

- A. “Committee” means the Lenglade County Land Conservation Committee appointed by the Lenglade County Board of Supervisors.

- B. “Cropland” means land used for the growing and harvesting of grains, legumes, grasses, fruits or vegetables; including land used for such purposes that may occasionally be used for livestock pasture.

- C. “Farmland” means land used for any agricultural uses defined in s. 91.01(1), Wis. Stats., including beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint, and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payments in kind; and vegetable raising.

- D. “Participant” means a landowner who owns land that is included on a valid zoning certificate or subject to a farmland preservation agreement under s. 71.59(1), Wis. Stats.

- E. “RUSLE II” (Revised Universal Soil Loss Equation – revision 2) means the mathematical formula for estimating or predicting average annual soil erosion rates due to sheet and rill erosion caused by rainstorms on specified land areas, as described in Section I of the Technical Guide.

- F. “Technical Guide” means the Wisconsin edition of the Natural Resource Conservation Service Field Office Technical Guide published by the Natural Resource Conservation Service of the U.S. Department of Agriculture.

- G. “T-Value” means the maximum average rate of soil erosion for each soil type that will permit a high level of crop productivity to be sustained economically and indefinitely. T-values of soil are specified in Section I and II of the Technical Guide

- H. “Wind Erosion Equation” means that mathematical formula for estimating or predicting average soil erosion rates due to wind erosion. As described in Section I of the Technical Guide.

Section III. Soil and Water Conservation Standards.

- A. Participants in the Farmland Preservation Program shall implement soil and water conservation standards, according to a schedule of compliance approved by the Committee, on all land for which the participant claims farmland preservation tax credits. The standards to be implemented are those required under ATCP 50.04, Wis. Adm. Code.

Section IV. Schedule of Compliance

- A. Soil and water conservation standards described on Section III shall be achieved and maintained according to a schedule of compliance established by the committee and participant. The committee may allow participating landowners a schedule of compliance of up to five years to meet standards from the year this policy first applies to the landowner. Each landowner shall make sufficient annual progress to ensure that the standards will be met by the end of the schedule of compliance. The LCC may issue a notice of noncompliance at any time that the required standards or prescribed annual progress is not met.

Section V. Variances

- A. The Committee may authorize a variance from the schedule of compliance when, upon a showing by the landowner, unnecessary hardship would result from meeting the standard schedule of compliance. Before a variance is granted upon the ground of unnecessary hardship, the Committee must make findings that:
 - 1. The standard schedule of compliance, by itself, would preclude a reasonable return from the land in question;
 - 2. The plight of the owner is due to unique circumstances and not to the general conditions of the areas which may reflect the unreasonableness of the schedule of compliance itself; and
 - 3. The conditions authorized by the variance will not have significant off-site impacts.
- B. The unavailability of cost-sharing funds to install needed practices, by itself, will not be sufficient grounds for the committee to grant a variance. The availability of cost-sharing funds may be considered in determining reasonable return under A.1., however, a variance shall not be granted to allow time for the implementation of any expensive conservation practice when the implementation of a less expensive practice would allow the landowner to meet the standard schedule of compliance.
- C. The Committee may also authorize variances from the soil and water conservation schedule of compliance when the committee is unable to review and determine conformance with schedule due to county staff shortages.

Section VI. Administration

- A. This policy shall be administrated by the Langlade County Land Conservation Department. Available staff of the U.S. Department of Agriculture - Natural Resource Conservation Services, may also provide technical assistance.
- B. Screening of participants
 - 1. The Land Conservation Department will screen each new participant in the Farmland Preservation Program. The screening will evaluate whether each participant is meeting the soil and water conservation standards enumerated in Section III and the extent to which any participant is out of compliance with the standards.

2. Initial screening will be completed by using information submitted by the participant to the Land Conservation Department at the time the participant requests a zoning certificate or at the time the participant applies for a Farmland Preservation Agreement.
3. If it is determined at initial screening that a participant in the Farmland Preservation Program is out of compliance with the standards, the participant shall develop a schedule of compliance with assistance from the Land Conservation Department and/or U.S. Department of Agriculture Natural Resource Conservation Service. The schedule must be approved by the Committee.

C. Annual Compliance

After a participant has been screened and, where needed, a schedule of compliance has been developed, the participant shall certify in writing each year that he or she is complying with the soil and water conservation standards required in Section III. For each participant with an ongoing schedule of compliance that participant shall certify that the annual progress to achieve required standards has been or has not been accomplished. Certification may be made by mail or in person to the Langlade County Land Conservation Department on forms provided by the Department by the date determined by the Land Conservation Department. Failure to certify compliance by the deadline as stated on the annual certification request letter sent to participants will result in a late certification penalty fee being assessed to the participant. The fee structure will be set by the Land Conservation Committee, but shall not exceed \$50.00 per participant per year.

D. Monitoring Compliance

The Land Conservation Department staff will determine individual compliance with the required soil and water conservation standards, at a minimum, once every six years. This determination will be made through a combination of field inspections, office examination of aerial photos or slides, and annual crop and tillage reports, or through other methods considered reliable by the committee.

E. Notice of Noncompliance

A written notice of non-compliance may be issued to a participant if the Land Conservation Committee finds that the participant has done any of the following:

1. Failed to comply with county standards;
2. Failed to comply with an existing farm conservation plan;
3. Failed to permit reasonable inspection to determine compliance
4. Failed to certify compliance with county standards or an existing farm conservation plan in response to Land Conservation Committee request.

The Notice of non-compliance shall disclose all of the following:

1. The nature of the violation and a deadline date for curing the violation;
2. That the participant may not claim Farmland Preservation tax credits until and unless the landowner corrects the violation;
3. That the participant may contest or discuss the alleged violation included on the notice of noncompliance with the Land Conservation Committee and an explanation of how the participant may do so.

The Land Conservation Committee may not issue a notice of noncompliance before a field inspection of the land has been made. The Land Conservation Committee may waive the requirement for a field inspection, if the notice of noncompliance is voluntarily agreed upon or is for failure to annually certify compliance with the soil and water conservation standard. Voluntary noncompliance applies to exclusive agricultural zoning only, not agreements.

The committee may choose to (but is not required to) give a participant up to five (5) years to cure non-complying conditions, without loss of tax credits, if the participant carries out the plan. The committee's choice of compliance strategy and timing will depend on a variety of factors, including the seriousness of the violation, the farmer's compliance history, the farmer's willingness to comply, and the nature of the corrective actions required.

If a participant fails to cure the violation or appeal by the date specified, the committee will forward a copy of the notices of noncompliance to the Wisconsin Department of Revenue and to the appropriate zoning jurisdiction of the land subject to exclusive agricultural zoning. This referral suspends tax credit eligibility. It is not necessary to offer cost-sharing to the participant before suspending the participant's tax credit eligibility. A county may withdraw the notice if the participant complies or if the notice is incorrect.

F. Notice of Hearing

Prior to issuing a notice of noncompliance with soil and water conservation standards established under s. 92.104 or s. 92.105, Wis. Stats., the committee shall notify the affected landowner by registered mail that the committee is considering issuing a notice of noncompliance and provide the landowner an opportunity to present to the committee reasons why the notice of noncompliance should not be issued. The committee shall provide at least ten days notice to the landowner prior to the meeting at which the landowner shall appear. A hearing is not required if the notice of noncompliance is voluntarily (zoning only) agreed upon due to a participant not wishing to participate in the program.

G. Cancellation of Notice of Noncompliance

If a landowner who has been issued a notice of noncompliance subsequently complies with the required standards, reestablishes a schedule of compliance, or certifies compliance with soil and water conservation standards the committee will cancel the notice of noncompliance. The cancellation of the notice of noncompliance must be based on a request from the affected landowner and a field inspection of the farm operation. Notice of the cancellation of the notice of noncompliance will be given to the farmer, the appropriate zoning authority, and the Wisconsin Department of Revenue.

H. Authority to Hear and Decide Appeals. Under authority of Chapter 68, Wis. Stats., the Langlade County Land Conservation Committee is authorized to hear and decide appeals for those persons alleging that there is an error in any order, requirement, decision or determination in administering this Ordinance. The Committee shall follow the Administrative Appeal Procedure set forth in Chapter 23 of the Code of Ordinances.

Section VII Annual Report

By April 15th of each year, the committee will file with DATCP a report of the previous year's status of administering this policy. The report will be consistent with ATCP 50.18 Wis. Stats.

Section VIII Amendments

This policy may be amended following a public hearing held by the committee for which a class 2 notice shall be published. All amendments shall be consistent with the Wisconsin Land and Water Conservation Board Guidelines for soil and water conservation requirements in the Farmland Preservation Program.

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