

# **DUNN COUNTY SOIL AND WATER CONSERVATION STANDARDS FOR THE FARMLAND PRESERVATION PROGRAM**

## Section I. Authority, Purpose, and Applicability

- A. These standards are established by the Dunn County Land Conservation Committee (LCC) pursuant to ss. 92.104 and 92.105, Wis. Stats., ATCP 50.16, Wis. Adm. Code, and related guidelines adopted by the Wisconsin Land and Water Conservation Board (LWCB) under s. 92.105(2). They provide 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 and in cases where the tax credits are based on the landowner entering into a farmland preservation agreement after the effective date of these standards. Landowners who currently have a farmland preservation agreement are subject to the soil and water conservation standards in effect at the time the signed application was submitted to the county clerk. Landowners with existing agreements are encouraged to adopt the updated standards. These standards are effective when approved by the LWCB and adopted by the LCC.

## Section II. Definitions

- A. 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.
- B. 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.
- C. Gully Erosion means areas of concentrated flow, which includes both ephemeral and classic gullies.
- D. Participant means a landowner who owns land that is included on a valid zoning certificate or subject to a farmland preservation agreement under the provisions of s. 71.59(1), Wis. Stats.

- E. RUSLE 2 (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 state version of the Natural Resources Conservation Service (NRCS) Field Office Technical Guide published by the NRCS of the U.S. Department of Agriculture, and adopted by the Dunn County LCC.
- G. T-Value means the maximum average annual 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 the mathematical formula for estimating or predicting average annual 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 LCC, on all lands for which the participant claims farmland preservation tax credits. The standards to be implemented are those required under ATCP 50.04, Wis. Adm. Code.
- B. Participants in the Farmland Preservation Program shall eliminate gully erosion on participating cropland according to a schedule of compliance approved by the LCC. Conservation practices shall be based on the Technical Guide and surface water runoff shall be delivered to a legal outlet or natural watercourse.

### Section IV. Administration

- A. This policy shall be administered by the Land Conservation Division of the Dunn County Planning, Resources and Development Department. Technical assistance may also be provided by available staff of the NRCS, U.S. Department of Agriculture.
- B. Schedule of Compliance

Soil and water conservation standards described in Section III shall be achieved and maintained according to a schedule of compliance established by the LCC and participant. The LCC 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.

### C. Annual Certification

Each 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 participants with an ongoing schedule of compliance the participant shall certify that the annual progress to achieve required standards has or has not been accomplished. Certification may be made by mail or in person to the County Land Conservation Division on forms provided by the Department.

### D. Monitoring Compliance

The Land Conservation Division 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 and examination of aerial photos or slides.

### E. Notice of Noncompliance

The LCC may issue a notice of noncompliance to a farmer if the farmer does any of the following (see ATCP 50.16(6), Wis. Adm. Code):

1. Fails to comply with the county standards.
2. Fails to comply with the standard that was agreed to in the farmland preservation agreement.
3. Fails to comply with an existing farm conservation plan.
4. Fails to permit a reasonable inspection to determine compliance with conservation standards or an existing farm conservation plan.
5. Fails to certify compliance with county standards, or an existing farm conservation plan, as requested by the LCC.

The notice of noncompliance shall disclose all of the following:

1. The nature of the violation, and a deadline date for correcting the violation.
2. That the farmer may not claim farmland preservation tax credits unless the farmer corrects the violation.
3. That the farmer may meet with the LCC to contest or discuss the notice of noncompliance. The notice will spell out the procedure for contacting the LCC and contesting the notice.

If the farmer fails to correct the violation by the date specified in the LCC notice, the LCC shall forward a copy of the notice to the following (referral suspends tax credit eligibility):

- The Wisconsin Department of Revenue.
- The local zoning authority if the land is covered by an exclusive agricultural zoning ordinance.

A farmer who fails to comply with the LCC notice is no longer eligible for farmland preservation tax credits.

A county may withdraw or cancel the notice if the farmer complies, or if the notice is incorrect. The LCC shall forward a copy of the cancellation of the notice to the following:

- The Wisconsin Department of Revenue.
- The local zoning authority if the land is covered by an exclusive agricultural zoning ordinance.

An LCC may issue a notice of noncompliance, and suspend the farmer's tax credit eligibility, *without offering cost-sharing to the farmer*.

#### F. Notice of Hearing

Prior to issuing a notice of noncompliance with soil and water conservation standards established under Section III., the LCC shall notify the affected landowner by registered mail that the LCC is considering issuing a notice of noncompliance and provide the landowner an opportunity to present to the LCC reasons why the notice of noncompliance should not be issued. The LCC 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 agreed upon. Voluntary noncompliance applies to zoning only, not agreements.

#### G. Cancellation of Notice of Compliance

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

### Section V. Variances

- A. The LCC may authorize a variance from the schedule of compliance when, upon a showing by the landowner, unnecessary hardship would result from meeting the schedule of compliance. Before a variance is granted upon the ground of unnecessary hardship, the LCC must make findings that (1) the schedule of compliance, by itself, would preclude a reasonable return from the land in question; (2) that the plight of the owner is due to unique circumstances and not to the general conditions of the area which may reflect the unreasonableness of the schedule of compliance itself; and (3) that 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 LCC to grant a variance. The availability of cost-sharing

funds may be considered in determining reasonable return under Section V. A. However, a variance shall not be granted to allow time for the implementation of an expensive conservation practice when the implementation of a less expensive practice would allow the landowner to meet the schedule of compliance.

#### Changes to Farm Conservation Plan

A participant and the LCC may mutually agree on changes to a farm conservation plan. The LCC shall keep a written record of all schedule of compliance waivers and plan changes.

#### Section VI. Annual Report

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

#### Section VII. Amendments

This policy may be amended following a public hearing held by the LCC 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.