

MARATHON COUNTY
SOIL AND WATER CONSERVATION STANDARDS POLICY
FOR THE FARMLAND PRESERVATION PROGRAM

Section I. Authority, Purpose, and Applicability.

- A. This policy is established by the Marathon County Land Conservation Committee (“LCC”) 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 (“LWCB”) under s. 92.105(2). It provides for county 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 county soil and water conservation standards in effect at the time the agreement application 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 the LWCB and adopted by the LCC.

Section II. Definitions.

- A. Committee means the Marathon County Land Conservation Committee appointed by the Marathon 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. Gully Erosion means a small valley or ravine originally worn away by running water and serving as a drainage way after prolonged heavy rains. Gully erosion involves the formation or enlargement of small to medium size ravines or channels that are too large to be obliterated by normal tillage operations.

- E. Participant(s) 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.
- F. 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.
- G. Technical Guide means the state version of the Natural Resources Conservation Service Field Office Technical Guide published by the Natural Resource Conservation Service of the U.S. Department of Agriculture, and adopted by the Marathon County Land Conservation Committee.
- H. 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.
- I. 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 shall implement county soil and water conservation standards (“county standards”), according to a schedule of compliance approved by the Committee, on all lands for which the participant claims farmland preservation tax credits. The farm conservation practices to be implemented to meet the county standards are those required under ATCP 50.04, Wis. Adm. Code.
- B. Participants shall also eliminate gully erosion on participating cropland according to a schedule of compliance approved by the Committee. Conservation practices shall be based on the Technical Guide, and surface water runoff shall be delivered to a legal outlet or natural watercourse.
- C. Certification – Participants shall annually certify in writing that they comply with the county’s Soil and Water Conservation Standards Policy. The Committee may, at their discretion, issue a notice of noncompliance (Section VI-E) to a participant that fails to annually certify.

Section IV. Schedule of Compliance

- A. County standards described in Section III shall be achieved and maintained according to a schedule of compliance established by the Committee and participant. The Committee may allow participants a schedule of compliance of up to five years to meet the county standards from the

year this policy first applies to the participant. Each participant shall make sufficient annual progress to ensure that the county standards will be met by the end of the schedule of compliance. The Committee may issue a notice of noncompliance at any time that the county standards, maintenance of conservation practices, or prescribed annual progress is not met.

Section V. Variations

- A. The Committee may authorize a variance from the schedule of compliance when, upon a showing by the participant, unnecessary hardship would result from meeting the schedule of compliance. Before a variance is granted upon the ground of unnecessary hardship, the Committee 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 participant 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 committee 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 participant to meet the schedule of compliance.
- C. The Committee may also authorize a variance from the schedule of compliance when the Committee is unable to review and determine conformance with the schedule due to county staff shortages.

Section VI. Administration.

- A. This policy shall be administered by the Marathon County Conservation, Planning and Zoning Department. Technical assistance may also be provided by available staff of the Natural Resources Conservation Service, U.S. Department of Agriculture.
- B. Screening of Participants
 - 1. The Conservation, Planning and Zoning Department will screen each new participant in the Farmland Preservation Program. The screening will evaluate whether each participant is meeting the county standards enumerated in Section III and the extent to which any participant is out of compliance with the county standards.
 - 2. Initial screening will be completed using information submitted by the participant, to the Conservation, Planning and Zoning Department, at the time the participant requests a zoning certificate or submits an application for a Farmland Preservation Agreement or Transition Area Agreement.

3. If it is determined at initial screening that a participant in the Farmland Preservation Program is out of compliance with the county standards, the participant shall develop a schedule of compliance with assistance from the Conservation, Planning and Zoning Department. The schedule must be approved by the Committee.

C. Annual Certification

Each participant shall certify in writing each year that he or she is complying with the county standards required in Section III. For participants with an ongoing schedule of compliance the participant shall certify that the annual progress to achieve compliance with the county standards has or has not been accomplished. Certification shall be made by mail or in person to the Marathon County Conservation, Planning and Zoning Department on forms provided by the Department.

D. Monitoring Compliance

The Conservation, Planning and Zoning Department will determine individual participant compliance with the county standards, at a minimum, once every six years. This determination will be made through a combination of field inspections and/or examination of annual crop reports, aerial photos or slides.

E. Notice of Noncompliance

The Committee may issue a notice of noncompliance to a participant if the participant 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 an existing farm conservation plan.
3. Fails to permit a reasonable inspection to determine compliance with the county standards or an existing farm conservation plan.
4. Fails to certify compliance with the county standards, or an existing farm conservation plan, as requested by the Committee.

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 participant may not claim farmland preservation tax credits* unless the participant corrects the violation.
3. That the participant may meet with the Committee to contest or discuss the notice of noncompliance. The notice shall spell out the procedure for contacting the Committee and contesting the notice.

If the participant fails to correct the violation by the date specified in the notice of noncompliance, the Committee shall issue a copy of the notice to all of the following (referral suspends tax credit eligibility):

- The Wisconsin Department of Revenue (“DOR”).
- The Marathon County Forestry, Recreation and Zoning Committee if the land is covered by a county exclusive agricultural zoning ordinance.
- The Town clerk if the land is covered by a town exclusive agricultural zoning ordinance.

The Committee may issue a notice of noncompliance, and suspend the participant’s tax credit eligibility, *without offering cost-sharing to the participant.*

F. Notice of Hearing

Prior to issuing a notice of noncompliance with the county standards established under Section III, the Committee shall notify the affected participant by registered mail that the Committee is considering issuing a notice of noncompliance and provide the participant 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 participant prior to the meeting at which the participant shall appear. A hearing is not required if the notice of noncompliance is voluntarily agreed upon.

G. Cancellation of Notice of Noncompliance

If a participant who has been issued a notice of noncompliance subsequently complies with the county standards or reestablishes a schedule of compliance, the Committee will cancel the notice of noncompliance. The cancellation of the notice of noncompliance must be based on a request from the affected participant and a field inspection of the farm operation. Notice of the cancellation of the notice of noncompliance will be given to the appropriate zoning authority and the DOR.

Section VII. Annual Report

- A. By April 15th of each year, the Committee will prepare and file with the 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

- A. 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 LWCB Guidelines for county soil and water conservation standards for the Farmland Preservation Program.