



State of Wisconsin
Tommy G. Thompson, Governor



Department of Agriculture, Trade and Consumer Protection

Ben Brancel, Secretary

December 29, 1998

Nancy Hollands
639 W Kemp St
Rhineland, WI 54501-3879

Dear Nancy:

On December 22, 1998, the Department of Agriculture, Trade and Consumer Protection, after consulting with the Land and Water conservation Board, granted waivers releasing Forest, Oneida, Vilas, and Florence Counties from the obligation to develop a soil erosion control plans. I am enclosing a copy of the waiver.

This waiver releases the counties from the obligation to prepare cropland soil erosion control plans, but would not release them from other (recently expanded) obligations under s. 92.10, Stats. Until recently, counties were only required to prepare soil erosion control plans containing the items 1 - 5. listed under s. 92.10(6)(a), Stats. The enactment of 1997 Wis. Act 27, added items related to nonpoint source pollution. This amendment converted the "soil erosion control plans" to "land and water resource management plans." Currently, these plans must:

1. Specify maximum acceptable rates of soil erosion (predates Act 27).
2. Identify the parcels and locations of the parcels where soil erosion standards are not being met (predates Act 27).
3. Identify land use changes or management practices which would bring each area of land into compliance with standards adopted by the land conservation committee (predates Act 27).
4. Specify procedures to be used to assist landowners and land users in controlling soil erosion (predates Act 27).
5. Establish priorities for controlling soil erosion (predates Act 27).
6. Identify causes, other than soil erosion, of nonpoint source water pollution (new in Act 27).
7. Describe all proposed county activities related to nonpoint source water pollution (new in Act 27).

In fall 1997, the county boards in Forest, Oneida, Vilas, and Florence Counties approved resolutions asking the department to grant them waivers. The resolutions found that cropland soil erosion was not a high priority problem in those counties. The department granted these waivers based on these county board resolutions, and based on the fact that these counties have relatively small amounts of cropland, the magnitude and extent of cropland erosion is small, and soil survey information is not available in these counties.

If you have any questions, feel free to contact me at (608) 224-4605.

Sincerely,

Sue Porter
Land and Water Resources Bureau

c: Forest Co. LCC Chair,
Erhard Huettl,
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STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
2811 Agriculture Drive, P.O. Box 8911
Madison, WI 53708-8911

IN THE MATTER OF COUNTY SOIL)	DATCP DOCKET NO. 98-G- 12
EROSION CONTROL PLANS FOR)	LWCB DOCKET NO. 98-32-21-000-W
FOREST, ONEIDA AND VILAS COUNTIES)	WAIVER

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection ("department"), having consulted the State of Wisconsin Land and Water Conservation Board ("LWCB"), makes the following findings and conclusions and enters the following order under s. ATCP 50.12(2)(b), Wis. Adm. Code:

FINDINGS

(1) Under s. 92.10, Stats., and s. ATCP 50.12(1), Wis. Adm. Code, counties are required to prepare county soil erosion control plans for department approval by January 1, 1999. A county must comply with this requirement in order to continue receiving soil and water resource management grants from the department. The department must review and approve county plans in consultation with the LWCB.

(2) Under s. ATCP 50.12(1)(b), Wis. Adm. Code, the department may waive the filing of a county soil erosion control plan if the department, after consulting the LWCB, finds that cropland soil erosion is not a high priority problem in that county. The department's finding may be based on a county board finding that cropland soil erosion is not a high priority problem, or on other information which the department considers relevant.

(3) The County Boards of Forest, Oneida and Vilas Counties have adopted resolutions, finding that cropland soil erosion is not a high priority problem in those counties (see resolutions attached).

(4) The Northern Wisconsin Cropland Survey, dated February 1995, surveyed cropland in Forest, Oneida and Vilas Counties, and found no acreage exceeding the tolerable soil loss level.

(5) Based on findings (3) and (4), it does not appear that cropland soil erosion is a high priority problem in Forest, Oneida and Vilas Counties. Those counties are not priority soil erosion control counties under s. 92.10(3), Stats.

(6) There is no compelling need for Forest, Oneida and Vilas Counties to prepare a soil erosion control plan under s. 92.10(6)(a)1. to 5., Stats., or s. ATCP 50.12, Wis. Adm. Code. However, those counties should comply with ss. 92.10(6)6. and 7., which are newly created by 1997 Wis. Act 27.

(7) The LWCB reviewed this matter at its meeting on December 1, 1998, and endorsed the department's proposed findings, conclusions and order as contained in this document.

CONCLUSIONS

(1) Under s. ATCP 50.12(1)(b), the department may waive the filing of county soil erosion control plans by Forest, Oneida and Vilas Counties.

(2) Based on the findings above, the department should issue a waiver that exempts Forest, Oneida and Vilas Counties from filing cropland soil erosion control plans under s. 92.10(6)(a)1. to 5., Stats., and s. ATCP 50.12, but does not exempt them from their other responsibilities under s. 92.10(6), Stats.

ORDER

NOW, THEREFORE, IT IS ORDERED, pursuant to s. ATCP 50.10(1)(b), Wis. Adm. Code, that:

(1) The department waives the filing of cropland soil erosion control plans under s. 92.10(6)(a)1. to 5., Stats., and s. ATCP 50.12, Wis. Adm. Code, by Forest, Oneida and Vilas Counties.

(2) The waiver under sub. (1) does not exempt the counties from the requirements under s. 92.10(6)(a)6. or 7. Nor does it exempt them from any other requirements which have been imposed or may be imposed under ch. 92, Stats., or ch. ATCP 50, Wis. Adm. Code.

Dated this 22 day of Dec, 1998

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By Ben Brancel
Ben Brancel, Secretary