



SOILS FACT SHEET
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Agricultural Erosion Control Legislation

GENERAL BACKGROUND

For over 40 years, the U.S. Soil Conservation Service, local soil and water conservation districts, and other public agencies have worked to protect our country's soil resources. Programs with cooperating farmers, other land owners, and governmental units have provided technical expertise and cost-sharing for erosion control practices on a voluntary basis. In recent years, increasing environmental concern has led to a shift in emphasis toward effects of eroded sediment on the quality of water in lakes and streams.

The Federal Water Pollution Control Act of 1972 established rigorous national goals for water quality and provided water management plans that would control all point and non-point sources of pollution. Section 208 requires that state and local agencies develop adequate area-wide plans, including regulatory programs for implementing the management provisions. Methods of controlling pollutants from non-point sources (e.g., sediment from erosion of agricultural lands) must be included in the plans.

In 1970, 2 years before the Federal Act, Maryland became the first state to enact erosion and sediment control legislation. The Maryland law requires anyone engaged in construction, land clearing, or mining operations to submit an erosion control plan to be approved by the local soil conservation district. Criteria and procedures are established by the Maryland Department of Natural Resources. Several other states, including Pennsylvania, Virginia, and North Carolina, adopted similar legislation during the early 1970's.

Minnesota has two local ordinances that address the topic. In 1971, Steele County passed a regulation requiring subdivision developers to submit plans that include erosion control measures approved by the Soil and Water Conservation District. In 1972, the Nine Mile Creek Watershed District in metropolitan Hennepin County passed an ordinance requiring a permit from the watershed district for "any grading, clearing, filling, or other earth changes which may introduce sediment into any waters . . . within the district."

LEGISLATION AFFECTING AGRICULTURAL LAND

Legislation previously cited pertains primarily to non-agricultural land use, agricultural practices being specifically exempt in those laws; however, at least two states, Iowa and

Michigan, have enacted legislation that regulates erosion on agricultural land. In addition, the Model State Act for Soil Erosion and Sediment Control (state legislation recommended by the Council of State Governments) includes regulation of land disturbing activities on agricultural and forested land.

Iowa Soil Conservation Law

The Iowa law has been in effect since 1971, giving us time to observe its functioning. Although it is used mainly on agricultural land, the regulations apply to all land uses. The regulations are administered by the State Soil Conservation Committee composed of a farmer representative from each of six newly-created "soil conservancy districts" plus one at-large urban member. Each of Iowa's 100 soil conservation districts was directed to establish reasonable soil loss limits for its county or district, with these limits subject to approval by the state committee. The soil loss limits vary with the class of land and range from 2 to 5 tons per acre annually.

Anyone concerned about damages caused by sediment from excessive erosion may file a complaint against the land owner. The soil conservation district investigates the complaint and determines whether excessive erosion is taking place, based on use of the Universal Soil Loss Equation. If the complaint is considered valid and the land owner will not voluntarily correct the problem, an administrative order (which can be enforced with court action if necessary) is issued. An important provision is that before legal action can be taken, the land owner must have access to at least 75 percent cost-sharing funds for any permanent agricultural erosion control practices, such as terraces, waterways, and grade stabilization structures.

By November 1977, approximately 200 complaints had been filed. All but 40 of these were settled voluntarily to the satisfaction of both parties. Of the 40 requiring administrative orders, 33 applied for cost-sharing funds, five complied without cost-sharing assistance, and two are pending court action. It should be noted that the mandatory provisions outlined here are only a part of Iowa's soil conservation legislation. The cost-sharing funds are intended primarily for use by voluntary farmer cooperators, with 5 percent of the appropriation set aside for use in correcting valid complaints. (Current cost-sharing assistance comes from combined state and federal sources.) According to William Greiner, director of the Iowa Department of Soil Conservation, the Iowa legislation is a compromise measure and not a model law. An important limitation he cites is that excessive erosion cannot be dealt

with until it has occurred; but, he feels that more stringent regulations would not be acceptable at this time.

Model State Act for Soil Erosion and Sediment Control

The Model State Act for Soil Erosion and Sediment Control, recommended by the Council of State Governments in 1972 as a model to be used by states drawing up legislation, goes beyond this limited approach. It requires implementation and maintenance of a conservation farm plan approved by the local soil conservation district (or other approved practices) by anyone owning or operating a farm. At least 50 percent cost-sharing and adequate technical assistance must be available to the farmer for the provision to be enforced. The soil conservation district, in conjunction with other appropriate state agencies, is designated as the agency responsible for the erosion control program.

Michigan Program

The agricultural provisions of the Michigan Soil Erosion and Sedimentation Control Program, scheduled to go into effect in January 1979, essentially follow the Model State Act guidelines except that no provision is made for cost-sharing. Additional funding is necessary for actual implementation of the agricultural provision of this law, in order to prepare conservation farm plans required to administer it.

Minnesota Programs

In Minnesota, agricultural erosion control still relies on voluntary cooperation. This effort was intensified by a 1977 amendment to the Soil and Water Conservation District's Law. This legislation states that the state Soil and Water Conservation Board shall prepare a program plan, including determination of high priority areas for erosion control. More importantly, it provides for the allocation of cost-sharing funds for erosion control practices to be administered by the state board through individual conservation districts. Minnesota is one of only three states, including Iowa and Wisconsin, providing cost-sharing funds. The amount appropriated for the current biennium is \$3 million.

In Minnesota, an attempt was made to make erosion control practices mandatory when the Sediment and Erosion Control Bill was proposed in 1973. The bill had provisions similar to the Model State Act: an approved conservation plan would be implemented and maintained on all agricultural lands; compliance with the law was not required unless 50 percent cost-sharing and technical assistance were available; the county agency would make on-site inspections to determine if the plan was being followed; and violation would be a misdemeanor. The bill was defeated.

An official statement from the Minnesota Chapter of the Soil Conservation Society of America in 1976 supports this approach: "The State should develop standards and guidelines for local enactment to require adoption of land use measures by farmers and land developers to minimize soil erosion and storm-water runoff."

Benton County, Minnesota has a mandatory wind erosion control ordinance which makes it illegal to remove or destroy a field windbreak without obtaining a special permit. Issuance of a permit requires a "contractual restrictive covenant" to run with the land that provides for implementation of an alternative erosion control plan.

CONCLUSIONS

The control of soil erosion is necessary to reduce off-site damage from sediment and to assure continued productivity of agricultural lands. The pieces of legislation outlined here attempt to accomplish this. Efforts to limit erosion can be expected to continue and probably intensify, as more stringent water quality standards go into effect. These efforts can continue in the direction of reliance on voluntary farmer cooperation, encouraged by measures such as cost-sharing and tax incentives, or take a full scale shift towards mandatory legislation requiring farmers to implement adequate erosion control practices. We've seen a trend toward more legislation during the 1970's. How far this goes depends on the effectiveness and acceptance of existing regulatory programs and on farmers' responses to financially-supported voluntary programs.

REFERENCES

(Note: Most references are pieces of legislation referred to in the fact sheet.)

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