



April 23, 2015

IOWA INSTRUCTION 180-392 – SOIL LOSS COMPLAINT PROCESS

IA392.0 PURPOSE

To provide guidance to NRCS field staff on what assistance may be provided related to a Soil Loss Complaint filed with the local Soil and Water Conservation District (SWCD).

IA392.1 SCOPE

These instructions will be followed by all field staff who assist Soil and Water Conservation Commissioners in providing technically support.

IA392.2 FILING INSTRUCTIONS

This Iowa Instruction will be posted on the Iowa NRCS Employee Website, which can be accessed under the Topics/People/NRCS Employees/Iowa NRCS eDirectives or at this link [Iowa NRCS eDirectives website](#).

IA392.3 EXHIBITS

See attachments.

/s/Jay T. Mar
State Conservationist

Attachments

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(IA Instruction 180 - 392 First Edition – April 2015)

IOWA INSTRUCTION 180-392 – SOIL LOSS COMPLAINT PROCESS

1. PURPOSE:

To provide guidance to NRCS field staff on what assistance may be provided related to a Soil Loss Complaint filed with the local Soil and Water Conservation District.

2. BACKGROUND:

The Soil Loss Complaint process is a regulatory law that was passed by the State of Iowa and is the responsibility of the state to enforce. NRCS's services are provided on a voluntary basis, and made available on request from the landowner or producer.

3. PROCESS:

The local Soil and Water Conservation Commissioners may request NRCS assistance for a soil loss complaint after they have made a site visit to determine if sediment damage is occurring and they have documented the site conditions with notes and photos. Once the request to the District Conservationist has been made, the District Conservationist will send an "NRCS Request for Entry" letter to the appropriate landowner/operator.

A. If NRCS receives consent to enter the property to accompany the Soil and Water Conservation Commissioners, the following services will be provided by the NRCS office:

- (1) Measure and calculate ephemeral and gully erosion and run RUSLE 2.
- (2) Provide alternatives that will reduce soil erosion to "T".
- (3) Offer technical planning services for a new or updated conservation plan, including a review of other resource concerns if requested.
- (4) Provide assistance/engineering for practice implementation, if requested by the owner/producer.

B. If NRCS does not receive consent for entry from the landowner/operator, NRCS assistance will be limited to the following services:

- (1) Provide training to SWCD Commissioners, SWCD staff, or DSC staff on how to collect and measure field information needed to calculate erosion.
- (2) Provide SWCD Commissioners, the sedimentation and soil loss calculations based upon the data and measurements collected by the local county Soil and Water Conservation District Commissioners during the field evaluation.

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- (3) Provide alternatives that will reduce soil erosion to “T”.
- (4) If requested by the producer, provide technical planning services for a new or updated conservation plan, including a review of other resource concerns if requested.
- (5) Provide assistance/engineering for practice implementation, if requested by the owner/producer.

Approved By: /s/

Date: April 27, 2015

Jay T. Mar
State Conservationist
Natural Resources Conservation Service
210 Walnut Street, Room 693
Des Moines, IA 50309-2180

Attachments

- Attachment A – NRCS Request for Entry
- Attachment B – SWCD Notice of Entry
- Attachment C – Soil Loss Handout

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Attachment A

NRCS Request for Entry



April 23, 2015

Mr. John Farmer
Address
City, State XXXXX-XXXX

Dear Landowner/operator:

As the technical partner to the County County Soil and Water Conservation District, the County County Soil and Water Conservation District Commissioners have requested my presence at an upcoming visit to your property on Month Day, Year, at Time.

If you would like for the Natural Resources Conservation Service (NRCS) to accompany the County County Soil and Water Conservation District Commissioners to this upcoming site visit please provide consent by contacting the local field office.

The NRCS role will be to provide technically sound conservation practice options if warranted.

Respectfully,

Name
District Conservationist

cc: County County Soil and Water Conservation District, Address, City, State, Zip

Natural Resources Conservation Service
210 Walnut Street, Room 693
Des Moines, IA 50309-2180
Voice (515) 284-4222 – FAX (855) 261-3319
An Equal Opportunity Provider and Employer

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Attachment B

SWCD Notice of Entry

April 23, 2015

Mr. John Farmer

Address

City, State XXXXX-XXXX

Dear Mr. Farmer:

A complaint has been filed with the District Soil and Water Conservation District Commissioners by Complainant Name stating that sediment damages are being sustained on their property and alleging that such sediment is originating from soil erosion occurring from the drainage area above in excess of limits established by district from such land from soil erosion. The trace of land which you own, against which the complaint was filed, is described as follow: Legal Description.

In order to determine the legitimacy of this complaint, it will be necessary for the district commissioners and their agents to inspect the aforementioned tract of land to ascertain whether such excess soil loss is actually occurring. Said inspection will be made on the Month Day, Year, at Time.

This letter is issued in compliance with the Notice provisions of Code of Iowa 161A.51. This Law grants the commissioners' authority to make an inspection after ten days written notice has been provided to you. Such an inspection will result in full disclosure of the relevant facts, which will be beneficial to all parties concerned.

Sincerely,

Chairperson's name, Chairperson

District Soil and Water Conservation District Commissioners

cc: (All landowners in effected claim area.)

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Attachment C

IOWA'S SOIL LOSS LIMITS

Enforced by Iowa's 500 Soil and Water Conservation District Commissioners



HISTORY AND METHODS

In 1971, Iowa established a soil loss limit which mandates soil conservation if a complaint is filed and the district and others determine soil loss is greater than established limits.



The first law of its kind in the nation, Iowa's soil is so valuable, the Iowa Supreme Court upheld a challenge to the law in 1979, when the first complaint was filed and found valid.

There are 450 soil types in Iowa! Iowa has some of the most productive soil in the world.



Pictured here are three different soil types mapped in a field.

The soil loss tolerance rate (T) is the maximum rate of annual soil loss that will permit crop productivity to be sustained economically and indefinitely on a given soil. "T" ranges from 1-5 tons/acre/year and is assigned to each soil type in the state.

FILING A COMPLAINT

A landowner or tenant brings concerns about soil erosion from a neighboring property to the district.

Staff or commissioners ask if mutual discussion has been held between neighbors or if there is the ability for a mutual discussion to occur about the problem and potential solutions.

Soil loss complaints can be filed on land subject to public interest. Examples include parks, roads, ditches and even lakes and streams receiving damage from soil erosion. Soil loss complaints can be filed in urban settings as well.



Next, a letter is submitted to the commissioners from the landowner/tenant.



Land ownership can be verified at the County Courthouse.



An example letter can be obtained from the local field office.

Dear Commissioners,
Description of erosion & damage.
Land quarter, section, township,
range.
I invite the commissioners to
inspect.
-Landowner/Tenant


Commissioners may inspect any land in the district where they suspect excessive soil loss is occurring. Residents can report a location to commissioners.

IOWA INSTRUCTION 180-392 – SOIL LOSS COMPLAINT PROCESS

Attachment C


IOWA'S SOIL LOSS LIMITS


Enforced by Iowa's 500 Soil and Water Conservation District Commissioners




MAKING A DETERMINATION

Commissioners then visit the land to determine if sediment damage is occurring.

 Commissioners document the land during visits.

 At the next board meeting, the commissioners decide if there is cause for a complaint.

If commissioners are denied access, a search warrant is obtained from the County Sheriff's Office.



If there is no damage, a letter is sent to the individual filing the complaint and no further action is taken unless another complaint is filed.

If there is damage, a letter is sent by certified mail informing the landowner/operator of the damage and that an inspection will occur in no less than 10 days on their land. The commissioners will request experts to accompany them and collect field data.


Commissioners and experts will determine if erosion is exceeding soil loss limits and will provide the landowner with two alternative land measures needed to bring soil loss to a tolerable limit.


ENFORCING THE COMPLAINT


Commissioners will accept equal or better alternative land treatment options from the landowner/tenant to meet district soil loss limits. Landowners are eligible for technical assistance and up to 50% cost share.


An administrative order will be filed to ensure work begins in a timely manner, in 6 months or less. If the administrative order is violated and work does not begin in 6 months, commissioners will petition for a court order to require compliance with the administrative order. This may require commissioners and experts to testify.


Factors that determine the amount of soil loss occurring and the practices to bring the soil loss to the tolerable rate (T):

 Soil

 Rainfall

 Current Conservation Practices

 Slope

 Crop Rotation

There are many options for controlling erosion:

- Conservation tillage
- ...
- Crop rotation
- ...
- Sediment control basins
- ...
- Terraces
- ...
- Waterways

This is summarized information from Iowa Code 181A. For the complete law refer to the Iowa Code. For detailed information processes and template letters and forms contact your local soil and water conservation district office, Conservation Districts of Iowa, 515.289.8300, or the Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation, 515.281.7043.