

LINCOLN COUNTY
SOIL AND WATER CONSERVATION STANDARDS
FOR THE FARMLAND PRESERVATION PROGRAM

Section I. Authority, Purpose, and Applicability.

- A. This policy is established by the Lincoln County Land Information, Conservation and University Extension Committee 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 under s. 92.105(2). It provides 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 based on the landowner participating under a farmland preservation agreement only. The landowner is subject to the 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. There is no exclusive agricultural zoning in Lincoln County.

Section II. Definitions.

- A. Committee means the Lincoln County Land Information, Conservation and University Extension Committee elected by the Lincoln 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. Department means staff from the Lincoln County Land Information and Conservation Department.
- D. 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.
- E. Participant means a landowner who owns land that is subject to a farmland preservation agreement under s. 71.59(1), Wis. Stats.
- F. RUSLE II (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 Lincoln County Land Information, Conservation and University Extension 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 or the Technical Guide.

Section III. Soil and Water Conservation Standards.

- A. Participants in the Farmland Preservation Program shall implement soil & water conservation standards, according to a schedule of compliance approved by the Committee, 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.

Section IV. Schedule of Compliance

- A. Soil and water conservation 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 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 technical standards will be met by the end of the schedule of compliance. The Committee may issue a notice of noncompliance at any time that standards, or maintenance of practices, does not meet the required standards or prescribed annual progress.

Section V. Variances

- A. The Committee may authorize a variance from the schedule of compliance when, upon a showing by the landowner, unnecessary hardship would result from meeting the standards schedule of compliance. To request a variance, a landowner must mail a written request for a variance to their schedule of compliance to the Land Information and Conservation Department. The written request should identify which practices need to be changed or installation delayed.
- 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 (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 standard schedule of compliance.
- C. The Committee may also authorize variances from the schedule of compliance when the Committee is unable to review and determine conformance due to county staff shortages.

Section VI. Administration.

- A. This policy shall be administered by the Lincoln County Land Information and Conservation 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 Department will screen each new participant in the Farmland Preservation Program. The screening will evaluate whether each participant is meeting the soil and water conservation standards enumerated in Section III and the extent to which any participant is out of compliance with the standards.
2. If it is determined that a new participant in the Farmland Preservation Program is out of compliance the participant shall develop a schedule of compliance with assistance from the Department. The schedule must be approved by the Committee.

C. Annual Certification

1. After a participant has been screened and, where needed, a schedule of compliance has been developed, the 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 Lincoln County Land Information and Conservation Department on forms provided by the Department.

D. Monitoring Compliance

1. The Department will randomly 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 Committee may issue a notice of noncompliance as provided under s.92.104 (4) and s. 92.105 (5), Wis. Stats., and suspend the farmer's tax credit eligibility, according to ATCP 50.16 (6), without offering cost-sharing to the farmer if the farmer does any of the following:

- Fails to comply with the county standards.
- Fails to comply with an existing farm conservation plan.
- Fails to permit a reasonable inspection to determine compliance with conservation standards or an existing farm conservation plan
- Fails to certify compliance with county standards, or an existing farm conservation plan as requested by the Committee.

The Committee may not issue a notice of noncompliance before a field inspection of the land has been made by Department staff. The requirement for a field inspection may be waived by the Committee if the notice of noncompliance is for failure to annually certify compliance with the soil and water conservation standards.

The notice of non compliance must disclose all of the following:

- The nature of the violation and a deadline date for curing the violation
- That the farmer may not claim farmland preservation tax credits unless the farmer corrects the violation.

- That the farmer may meet with the Committee to contest or discuss the notice of noncompliance. The notice should spell out the procedure for contacting the LCC and contesting the notice.

Copies of notices of noncompliance shall be submitted to the Wisconsin Department of Revenue. No farmland preservation tax credits will be allowed to landowners who have been issued a notice of noncompliance with soil and water conservation requirements, unless such notice is subsequently canceled by the Committee under s. 92.104(4) or s. 92.105(5), Wis. Stats.

F. Notice of Hearing

Prior to issuing a notice of noncompliance with soil and water conservation standards established under s. 92.104 or s. 92.105, Wis. Stats., the Committee shall notify the affected landowner by registered mail that the Committee is considering issuing a notice of noncompliance and provide the landowner 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 landowner prior to the meeting at which the landowner shall appear.

G. Cancellation of Notice of Noncompliance

If a landowner who has been issued a notice of noncompliance subsequently complies with the required technical standards or reestablishes and complies with a new a schedule of compliance, the Committee will cancel the notice of noncompliance. The Committee may also cancel a notice if it is incorrect. The cancellation of the notice of noncompliance must be based on a request from the affected landowner and a field inspection of the farm operation. Notice of the cancellation of the notice of noncompliance will be given to the Wisconsin Department of Revenue and the Wisconsin Department of Agriculture, Trade and Consumer Protection.

Section V. Annual Report

- A. By April 15th of each year, the Committee will prepare a report of the previous year's status of administering this policy. The report will consistent with ATCP 50.18 Wis. Stats.

Section VI. 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 Wisconsin Land and Water Conservation Board Guidelines for soil and water conservation requirements of the Farmland Preservation Program.

**Lincoln County
Farmland Preservation Program
Conservation Standards Adoption Procedure**

Updates to the Lincoln County Farmland Preservation Soil and Water Conservation Standards by the Lincoln County Land Information, Conservation and University Extension Committee will be according to ss. 92.104, 92.105, Wis. Stats., ATCP 50.16, Wis. Adm. Code, and related guidelines adopted by the Wisconsin Land Conservation Board under s. 92.105(2). 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.

The Lincoln County Land Information, Conservation and University Extension Committee is submitting draft Soil and Water Conservation Standards for the Lincoln County Farmland Preservation Program to the Department of Agriculture, Trade, and Consumer Protection (DATCP) for review. Lincoln County requests that DATCP review the standards and provide comments on changes needed for approval. Upon acceptance of the standards by DATCP, Lincoln County requests that the standards be submitted to the Land and Water Conservation Board for approval.

The Lincoln County Land Information, Conservation and University Extension Committee will schedule a Class 2 public hearing following approval of the standards by the Land and Water Conservation Board. The hearing will be publicized by a class 2 public notice in the official county newspaper. Landowners will be notified of the updated standards through the public notice in the newspaper and through a mailing to FPP participants that describes the revisions to the standards and compliance procedures.

Workplan for Implementing the Revised Standards

Since Lincoln County landowners participate in the Farmland Preservation Program through agreements only, all new program participants will be required to meet these new standards as well as current participants who extend their agreement. The Land Information and Conservation Department staff will work with all new participants to develop a schedule of compliance to meet the revised standards.