

**Farmland Preservation Program
Soil and Water Conservation Compliance
Frequently Asked Questions**

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Basic Requirements

What soil and water conservation standards are landowners required to meet to claim the Farmland Preservation Program (FPP) tax credit?

Category of Claimant/Required Standards	2012 standards	2002 standards	Standards adopted by the county	Achieve "T"
FP Zoning (new claimant, or somebody you <u>have not</u> worked with for purposes of FPP compliance)	X	X		
FP Zoning (has been previously claiming, or you have been working with for purposes of FPP compliance)	X ²	X		
FP Agreement signed after May 1, 2014, but before January 1, 2016	X	X		
FP Agreement signed after January 1, 2016	X	X		
FP Agreement signed or modified after 2009 but before May 1, 2014 (excludes Act 374 Agreements)		X		
FP Agreement signed between 2004 and 2009 (including Act 374 Agreements)			X ¹	
FP Agreement signed before 2004				X

¹Contact us for help determining what standards apply.

²These are the only individuals who may be given a Certificate of Compliance if they meet the 2002 standards and issued a performance schedule to come into compliance with the 4 new standards within 5 years. This group includes landowners you know as FPP claimants or are on your county list of participants, but have not yet been contacted for a farm assessment.

Who must meet all of the performance standards (2002 and 2012) before they can get a Certificate of Compliance?

Anyone who comes into your office in calendar year 2016 that is not on a list of known farmland preservation program participants and who you have not worked with before for purposes of determining FPP compliance status will need to meet all of the performance standards (both 2002 and 2012) before a Certificate of Compliance can be issued. This includes both landowners who are claiming under a certified zoning ordinance or with an agreement in an agricultural enterprise area.

Do all landowners need a Certificate of Compliance?

If a landowner meets the eligibility requirements to claim the farmland preservation tax credit of \$5, \$7.50 or \$10 per acre, including compliance with the required standards, then he/she will need a Certificate of Compliance in order to claim the tax credit. Beginning in 2016, each Certificate of Compliance must include a seven-digit Certificate of Compliance number that is unique to the landowner entity. The Department of Revenue will require landowners provide this number on Schedule FC-A for tax credit claims for tax year 2016.

A Certificate of Compliance is not required for landowners with agreements signed prior to July 1, 2009, who use Schedule FC and claim credits based on income. These landowners are required to follow the performance standards in effect at the time the agreement is effective. Although a Certificate of Compliance is not required for these landowners, you may still choose to issue one.

Determining Compliance

Under the certification section of the certificate of compliance, when would the box for other demonstration of compliance be marked?

You would use this checkbox if you were not out on the farm for the inspection and instead reviewed other records and/or photos to determine compliance. Examples include a NMP review that is not done on the farm, or the use of an aerial photo to determine if concentrated flow channels exist and confirm that waterways are in place. In most cases, however, it is difficult to conduct a thorough review for FPP compliance without some level of physical review on the farm.

Can a landowner challenge a determination of noncompliance?

Yes. A landowner may request a meeting with the land conservation committee to contest or discuss the violation preventing the landowner from being issued a Certification of Compliance.

Deadlines

What is the deadline for issuing a Certificate of Compliance to landowners to claim the farmland preservation tax credit?

Landowners who are in compliance with the 2002 performance standards should all be issued a Certificate of Compliance that includes a Certificate of Compliance number as soon as possible. Because of the requirement to include a Certificate of Compliance number on Schedule FC-A for calendar year 2016, a Certificate of Compliance must be issued by December 31, 2016 to all participants wishing to claim the farmland preservation in order to ensure landowner eligibility to claim the tax credit. See the table on page 4 for guidance on what standards landowners are required to meet before a Certificate of Compliance can be issued.

Are any landowners eligible to claim the farmland preservation tax credit if they have a performance schedule?

There are very limited circumstances in which a landowner may be able to continue to claim the farmland preservation tax credit if they have a performance schedule. Only a landowner who has already been claiming the tax credit under farmland preservation zoning, or with whom you have been working with for purposes of FPP compliance may claim the farmland preservation tax credit as they continue to work towards compliance. In these limited circumstances, the landowner must have a Certificate of Compliance for compliance with the 2002 standards. The performance schedule may only be issued to achieve compliance with the 2012 standards. Landowners claiming the credit for the first time in tax year 2016 must be in compliance with all standards, including the 2012 standards, and are not eligible for a performance schedule.

Does the county have any flexibility with participants who are currently working to achieve compliance, but have not yet finished their 590 or reached other compliance obligations?

Beginning with tax credit claims for the 2016 tax year, the Department of Revenue will be asking landowners to enter their Certificate of Compliance number on their 2016 Schedule FC-A. Therefore, landowners will need to have a Certificate of Compliance with a Certificate of Compliance number by December 31, 2016 if they want to claim the tax credit for 2016.

Tracking Compliance

How can a county track the names of landowners participating the in the farmland preservation program?

Beginning in 2017 for tax year 2016, landowners will be asked to enter a unique seven-digit number on Schedule FC-A in order to claim the farmland preservation tax credit. This number will be provided to landowners upon issuance of a Certificate of Compliance. Landowners that do not have a Certificate of Compliance will not have a Certificate of Compliance number and will need to contact you. This contact will enable you to create a complete list of all landowners eligible to participate in the farmland preservation program in your county and allow you to conduct the required farm assessments.

Should a county be checking compliance with landowners who have land in multiple counties?

Landowners usually pick one county to work with if their land is in more than one county. Counties should talk with other conservation offices to be sure the farm is covered and share the farm assessment information. The landowner needs one Certificate of Compliance for each farm, with one unique Certificate of Compliance number on each form that lists all of the parcels that are a part of the same farm. Counties can include multiple municipalities on the Certificate of Compliance.

Ownership

What acres need to be in compliance with all applicable soil and water conservation standards?

Landowners eligible to claim farmland preservation tax credits of \$5, \$7.50, \$10 per acre using Schedule FC-A, must be in compliance with all applicable soil and water conservation standards on all land under common ownership that is primarily devoted to agricultural use, regardless of whether those acres are eligible for the credit. "Common ownership" exists when multiple parcels are owned by the same entity. See the table on page four for guidance on what standards landowners are required to meet before a Certificate of Compliance can be issued.

What are the ownership and compliance requirements if two farmers, Gary and Roman, own some land together and some land separately, but only Gary wants to claim the tax credit under zoning?

The land owned solely by Roman does not need to be in compliance for Gary to claim on his land or the co-owned land. For Gary to claim the tax credit on his land, he would be required to meet all of the soil and water conservation standards. For Gary to claim the tax credit on the land he co-owns with Roman, that land would also need to be in compliance with the soil and water conservation standards. Two

separate Certificates of Compliance, with two unique Certificates of Compliance numbers must be issued.

If Gary chooses only to claim the tax credit on his land, the co-owned land would not be required to meet the conservation standards before he could claim the credit on the land he owns by himself.

Any tax credit related to the land owned together would be paid based on the ownership percentage which is evaluated by DOR.

Would the county need to issue three separate Certificates of Compliance if ownership of three separate parcels is as follows: Parcel 1) John Smith sole ownership; Parcel 2) Smith, John and wife, Karen; and Parcel 3) Smith Living trust ownership with mother?

In this example, you would need to issue two separate Certificates of Compliance, with two separate Certificate of Compliance numbers. Parcel 1 and Parcel 2 could be included on one Certificate of Compliance since Wisconsin is a marital property state. The land owned by the trust would be a separate ownership and need its own Certificate of Compliance.

In another example, if one parcel is owned by the Haas Irrevocable Family Trust 2006 and another parcel is owned by the Roger & Joan Haas Living Trust dated 1996, two separate Certificates of Compliance with two separate Certificate of Compliance number would be needed. The creation of the trusts at different times establishes two separate landowner entities.

What happens when a landowner acquires new land?

Several things happen when a landowner acquires new land. First for the landowner to claim the tax credit on the new land, the landowner must contact the county to determine if this land is in compliance with the required soil and water conservation standards. Second, once compliance is achieved, the county must issue a revised Certificate of Compliance to include the new acres. If the ownership of the land remains the same, the same Certificate of Compliance number should continue to be used.

A landowner has 1 year from the date of purchase to bring that land into compliance with the performance standards, which includes updating their nutrient management plan to include the new acres. In order to maintain eligibility for the tax credit, the landowner must be in compliance on all acres under common ownership, regardless of whether the landowner can claim on all of these acres.

If the landowner has an agreement and the land is not under zoning, the landowner cannot claim on the new acres until they have a new agreement in place to cover those acres.

If the landowner's new land is under zoning and the person has an agreement on other land, the landowner can claim on the new acres, but only at the \$7.50 per acre tax credit rate until they get an agreement in place on those new acres.

If land is sold or transferred during the year, can both the new and the former owner claim the tax credit?

No. You must have paid to or be legally responsible for paying to the taxing authority the current year property taxes levied against the parcels sold. The entity who owns the land when the tax bills are

produced is generally the person authorized to pay the taxes to the municipality. Claims made on tax schedule FC-A may not be prorated for ownership during part of the year.

How should a Certificate of Compliance be handled in a situation where a FPP participant sold some, but not all of their acreage this past year?

A Certificate of Compliance should be updated any time there is a change in eligible acreage. When updating the Certificate of Compliance, use the same Certificate of Compliance number. This number is unique to the landowner entity. It is the landowner's responsibility to contact you to get an updated Certificate of Compliance. Instructions for completing Schedule FC-A notify landowners of their obligation to get an updated Certificate of Compliance when acreage of the farm changes.

What are the compliance obligations under a FPP agreement once the land is sold?

The agreement goes with the land, therefore when land is sold, the new owner is obligated to continue to comply with the terms of the agreement, including compliance with the soil and water conservation standards. These obligations must be met, regardless of whether the new owner is eligible to claim the farmland preservation tax credit.

Standards

If a pasture is determined to have a Phosphorus Index (PI) value above 6, what can be done to reduce this?

Pastures, like crop fields can reduce their PI by reducing erosion and runoff. Managing pastures at a stocking rate that will maintain sod cover is important because bare pastures are likely to have and release more phosphorus.

The FPP Model Farm Inspection Report states that "facilities constructed or substantially altered after 2002 meet the NRCS 313 standard," but what if the facility was constructed before 2002? Do we mark "does not apply?" If a facility was built before 2002 does it have to meet any standards or do we just have to visually look at the pit and indicate that there are no visible signs of leakage or failure?

Regardless of the age of the storage pit DATCP suggest staff look for visible signs of leakage or overflow. Counties may have a manure storage ordinance or other ordinance that requires compliance for storage and NMPs prior to the changes to the performance standards approved in 2002. Marathon County is one example of this.

On the FPP Model Farm Inspection Report the last item states that "There are no channels or other visible signs of significant discharge from a feedlot or stored manure into waters of the state." What about road ditches? We have discussed waters of the state with our local DNR runoff coordinator in regards to road ditches but what is DATCP's interpretation?

Under the definitions in NR 151 – "waters of the state" is defined in NR283.01 (20) which states "Waters of the state" means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

Manure that is discharged into a road ditch is a problem because once channeled, the discharge is likely to make its way to water. Livestock operators may consider low cost options for removing “significant” direct feedlot runoff such as:

1. Grazing cattle on nearby fields.
2. Collecting lot manure on a consistent basis and field applying in accordance with a nutrient management plan, or
3. Removing channels with roof gutters, clean water diversions, or rock spreader diversions with harvested vegetative runoff filters.

In regard to the tillage setback performance standard, NR 151.03, are road ditches required to have a tillage setback?

No official guidance on this exists to date. The language in NR 151 states “No tillage operations may be conducted within 5 feet **of the top of the channel of surface waters.**” Surface waters can be interpreted as perennial and intermittent, both natural and artificial. It is recommended that you work with landowners to establish and maintain the tillage setback around any perennial or intermittent body of water that has an obvious channel and bank. The surface water data viewer may serve as a good reference while working with a landowner to achieve compliance with this standard.

Certificate of Compliance Numbering System

What do we do about COCs that have already been issued without a Certificate of Compliance number?

If you have previously issued a COC, you will not need to reissue a new COC. You will, however, need to notify the landowner of their COC number(s). A space to enter a COC number has been added to the COC form found on the DATCP website, however in lieu of printing new COCs, a sticker with the unique COC number could be placed on existing COCs and sent to landowners. If you choose to fill out a new COC instead of using a sticker on an existing copy of a COC, use the same issue date as the original COC.

Moving forward, all new COCs issued must be given a COC number unique to that landowner/farm.

What landowners will need a COC number?

All landowners who claim the farmland preservation tax credit with Schedule FC-A beginning in 2016 will need a COC number. This includes landowners who claim under a farmland preservation zoning ordinance and landowners who have a farmland preservation agreement signed or modified after July 1, 2009. Landowners will need to enter this number on Schedule FC-A in order to claim the credit in tax year 2016.

What is the deadline for issuing a Certificate of Compliance to landowners to claim the farmland preservation tax credit?

Landowners who are in compliance with the 2002 performance standards should all be issued a Certificate of Compliance that includes a Certificate of Compliance number as soon as possible. Because of the requirement to include a Certificate of Compliance number on Schedule FC-A for calendar year 2016, a Certificate of Compliance must be issued by December 31, 2016 to all participants wishing to

claim the farmland preservation in order to ensure landowner eligibility to claim the tax credit. See the table on page 4 for guidance on what standards landowners are required to meet before a Certificate of Compliance can be issued.

There are very limited circumstances in which a landowner may be able to continue to claim the farmland preservation tax credit if they have a performance schedule. Only a landowner who has already been claiming the tax credit under farmland preservation zoning, or with whom you have been working with for purposes of FPP compliance may claim the farmland preservation tax credit as they continue to work towards compliance. In these limited circumstances, the landowner must have a Certificate of Compliance for compliance with the 2002 standards. The performance schedule may only be issued to achieve compliance with the 2012 standards. Landowners claiming the credit for the first time in tax year 2016 must be in compliance with all standards, including the 2012 standards, and are not eligible for a performance schedule.

Does the COC number change when a new COC is issued to the same landowner?

No. You can think of this number as a unique number associated with a landowner entity. If a landowner entity adds acres, the COC must be updated to reflect those new acres, but the COC number remains the same for that landowner entity. When ownership of the farm changes, a new COC should be issued to the new landowner with a new COC number. Examples of landowner entities might include, but are not limited to, individuals, partnerships, LLCs, and trusts. In some cases, the landowner entity may be comprised of multiple individuals with an percentage of ownership interest in the land. The COC number issued on the COC for that land must be used by each individual to claim a tax credit that is equal to their ownership interest in the land.

What will Question 3 of Schedule FC-A ask?¹

The wording for question 3 of Schedule FC-A for tax year 2015 asks whether each farm on which the claim is based has a certificate of compliance with applicable soil and water conservation plans and standards. Beginning with tax year 2016, question 3 of Schedule FC-A will instruct a claimant to enter the seven-digit compliance number from the Certificate(s) of Compliance on which the claim is based.

Why is the requirement to submit a COC with a tax return being removed?

The requirement is not being removed. New claimants or claimants adding acreage still need to submit a copy of their COC with their return. The COC numbering system is intended to create a method that more accurately identifies, tracks, and cross-references landowners who are eligible to claim a tax credit.

Will landowners be able to enter more than one COC number on Schedule FC-A?

Yes. DOR recognizes that some landowners may have more than one COC and there will be space on Schedule FC-A for landowners to enter more than one COC number.

¹ Link to 2015 Schedule FC-A: <https://www.revenue.wi.gov/forms/2015/ScheduleFC-A.pdf>

Link to 2015 Schedule FC-A Instructions: https://www.revenue.wi.gov/forms/2015/ScheduleFC-A_inst.pdf

How should Notices of Noncompliance be issued and tracked?

Notices of Noncompliance (NONs) should continue to be issued using the current process. The one change in the process is that the date a NON is issued and the date that the NON is canceled, must be added to the tracking spreadsheet as an additional way for DOR to cross-reference landowner eligibility.

Will we need to include the COC number on NONs?

Yes. Including the COC number on a newly-issued NON will help match-up a NON with a COC. A revised NON form with a space to include the COC number is available on our website. If there are existing NONs in your county, you do not need to go back and add a COC number.

What if landowners use their COC number on a future Schedule FC-A, but they have been issued a NON?

The process for issuing NONs does not change. Once a NON is issued, it is sent to DOR and DATCP. DOR flags that landowner entity as ineligible for the credit. This prevents a landowner from claiming a credit until compliance obligations are met, even if the landowner submits a Schedule FC-A with his/her tax return. Additionally, by providing a NON issue date in the annual spreadsheet you submit to DATCP, DOR will have another way to cross-reference landowner eligibility.

Why do we have to track COCs and NONs in the spreadsheet?

This information is relevant to a landowner's compliance status. This spreadsheet will enable more accurate tracking of landowner eligibility. Annually, DATCP will compile the spreadsheets from all counties who have issued COCs to send to DOR.

What information will the spreadsheet track?

- COC number
- Name of the landowner entity exactly as it appears on the COC
- Total eligible acres
- Date COC issued
- Date NON issued
- Date NON canceled

There are a number of issues to work through related to consistently and accurately recording and tracking information in this spreadsheet. We will be working through these issues with you to get a tracking system in place that works.

Can we alter the spreadsheet?

No. Because we will be compiling the spreadsheets of all counties with COCs into one each year, we are asking that you do not alter the spreadsheet. If you do need to alter the spreadsheet in some way to ensure consistency with your current county tracking system, we ask that you save a copy of the spreadsheet in the format we provided prior to submitting to us at the end of the year.

Will landowners with agreements who have a COC number still be required to submit a copy of their farmland preservation agreement with their tax credit claim?

Yes. Instructions provided by DOR request that claimants with a farmland preservation agreement continue to submit a copy of their agreement contract with Schedule FC-A when filing for the farmland preservation tax credit.

What steps should be followed when a previous claimant no longer owns any land or is otherwise ineligible for a reason other than noncompliance?

If a landowner who previously claimed a tax credit sells all of his/her land or is no longer covered by a certified FP zoning district or FP agreement, you will need to update the spreadsheet so that the number of eligible acres assigned to the corresponding COC number and landowner name is shown as zero. The COC number assigned to that landowner should not be reassigned to a future landowner. You are not required to issue a NON to the landowner. It is the responsibility of the landowner to claim only those credits for which the landowner is eligible.

What should we do if a landowner is in compliance and has a COC for all of the 2002 standards, but is under a performance schedule to achieve compliance with the 2012 standards?

If a landowner is in compliance with the old standards and has a COC, you will need to make sure that you have provided the landowner with a COC number so that he/she may continue to claim the farmland preservation tax credit. Once the landowner has met the performance schedule obligations, the landowner can continue to use this COC number. If the landowner fails to meet the compliance obligations, you will need to issue the landowner a NON.

Appendix A: Two-Digit County Numbers

Adams 01	Kewaunee 31	Trempealeau 62
Adams 01	La Crosse 32	Vernon 63
Ashland 02	Lafayette 33	Vilas 64
Barron 03	Langlade 34	Walworth 65
Bayfield 04	Lincoln 35	Washburn 66
Brown 05	Manitowoc 36	Washington 67
Buffalo 06	Marathon 37	Waukesha 68
Burnett 07	Marinette 38	Waupaca 69
Calumet 08	Marquette 39	Waushara 70
Chippewa 09	Menomonee 40	Winnebago 71
Clark 10	Milwaukee 41	Wood 72
Columbia 11	Monroe 42	
Crawford 12	Oconto 43	
Dane 13	Oneida 44	
Dodge 14	Outagamie 45	
Door 15	Ozaukee 46	
Douglas 16	Pepin 47	
Dunn 17	Pierce 48	
Eau Claire 18	Polk 49	
Florence 19	Portage 50	
Fond du Lac 20	Price 51	
Forest 21	Racine 52	
Grant 22	Richland 53	
Green 23	Rock 54	
Green Lake 24	Rusk 55	
Iowa 25	St. Croix 56	
Iron 26	Sauk 57	
Jackson 27	Sawyer 58	
Jefferson 28	Shawano 59	
Juneau 29	Sheboygan 60	
Kenosha 30	Taylor 61	

