

Working Lands and Farmland Preservation Tax Credits

Informational Paper 72

Wisconsin Legislative Fiscal Bureau
January, 2015

Working Lands and Farmland Preservation Tax Credits

Prepared by

Paul Ferguson and Al Runde

Wisconsin Legislative Fiscal Bureau
One East Main, Suite 301
Madison, WI 53703
<http://legis.wisconsin.gov/lfb>

TABLE OF CONTENTS

Introduction.....	1
Chapter 1: Working Lands Initiative	2
Farmland Preservation Plans	2
Farmland Preservation Zoning	6
Farmland Preservation Agreements.....	13
Agricultural Enterprise Areas	15
Soil and Water Conservation	16
Purchase of Agricultural Conservation Easements (PACE).....	18
DATCP Administration and the Working Lands Fund	23
Chapter 2: Farmland Preservation Tax Credits	26
Pre-2010 Farmland Preservation Tax Credit	26
Per-Acre Farmland Preservation Tax Credit	28
Appendices	
Appendix I: County Population Figures and Farmland Preservation Plan Status	33
Appendix II: County Population Figures and Farmland Preservation Plan Status (by Plan Certification Expiration Date)	35
Appendix III: Farmland Preservation Zoning Ordinances and Expiration Dates by County and Municipality	37
Appendix IV: Farmland Preservation Agreements.....	39
Appendix V: Agricultural Enterprise Areas (AEAs).....	42
Appendix VI: Agricultural Conservation Easements	45
Appendix VII: 2011 Purchase of Agricultural Conservation Easements (PACE) Selection	46
Appendix VIII: Example Calculation of a Pre-2010 Farmland Preservation Tax Credit for an Agreement Holder	50

Working Lands and Farmland Preservation Tax Credits

Introduction

The Working Lands Initiative (WLI) was enacted under 2009 Act 28, the 2009-11 biennial budget. Many of the provisions of the WLI were formulated by the Working Lands Initiative Steering Committee, a group convened in 2005 by the Secretary of Agriculture, Trade and Consumer Protection. The committee consisted of 26 members, representing interests such as agriculture, real estate, business, environment, tourism, and local government. The committee was instructed to explore actions and policies that would alleviate pressures on farmland that was vulnerable to being removed from future uses in agriculture, forestry or recreation. The WLI Steering Committee cited in its 2006 final report that between 1950 and 2000, agricultural acreage in Wisconsin declined by about one-third, from approximately 24 million acres to 16 million acres. The U.S. Census of Agriculture estimates 14.6 million farmland acres as of 2012.

The WLI Steering Committee recommended multiple changes to the state's farmland preservation program, administered by the Department of Agriculture, Trade and Consumer Protection (DATCP) under Chapter 91 of the statutes, and to the farmland preservation tax credit under Chapter 71. The WLI can, therefore, be considered to consist of land use policies and tax credits for landowners who comply with land use requirements.

The chapters that follow describe the current farmland preservation program and tax credits, and also describe significant changes made by 2009 Act 28 and subsequent legislation. Chapter 1 describes the land use provisions, including: (a) farmland preservation planning; (b) farmland preservation zoning; (c) farmland preservation agreements; (d) agricultural enterprise areas; and (e) a program for the purchase of agricultural conservation easements, known as PACE. Chapter 2 describes the current and former structures of the farmland preservation tax credit.

Introduction

Prior to 2009 Act 28, landowners were eligible for farmland preservation tax credits by owning land designated for long-term agricultural use. These designations included agricultural preservation plans and exclusive agricultural zoning ordinances, which municipalities were authorized to enact to further goals of keeping certain lands in agricultural use. In addition, landowners could voluntarily enter into contracts with DATCP known as farmland preservation agreements, which also limited these lands to uses consistent with agricultural use. Recipients of tax credits were also required to implement soil and water conservation practices to remain eligible for the credit.

These policy instruments and requirements were largely retained under Act 28, although agricultural preservation plans are now known as farmland preservation plans, and exclusive agricultural zoning ordinances are known as farmland preservation zoning ordinances. Farmland preservation agreements in place prior to Act 28 were not directly affected by the act, although new or modified agreements must meet different requirements, which are discussed later in greater detail. In addition, Act 28 created agricultural enterprise areas, which are intended to be areas for the development and operation of agriculture and agriculture-related businesses, such as farm implement dealers and processing facilities for agricultural products. This chapter discusses each instrument.

Farmland Preservation Plans

Under 2009 Act 28, all counties are required to adopt a farmland preservation plan by January 1, 2016. Previously, counties were not required to enact agricultural preservation plans, although all counties except Milwaukee and Menominee had plans in effect prior to Act 28. Farmland preservation plans form the basis for all other farmland preservation policy instruments either continued or created in Act 28. Specifically, a common requirement of farmland preservation zoning districts, farmland preservation agreements, agricultural enterprise areas and agricultural conservation easements is that each must be located within farmland preservation areas designated in a certified farmland preservation plan.

A farmland preservation plan is broadly intended to establish a county's policy for farmland preservation and agricultural development. To be certified by DATCP, a plan must describe and map the areas to be preserved for agricultural and agriculture-related uses. Preservation areas may include undeveloped natural resource areas or other open space, but they cannot include areas planned for nonagricultural development within 15 years. Plans must describe both the rationale used to identify the preservation areas, as well as actions and programs the county and other municipalities will use to preserve targeted preservation areas. Plans must describe the land uses planned for each preservation area.

To carry out the planning process, the statutes identify a number of considerations that should guide the creation or revision of a plan:

- Development trends, plans or needs that may affect farmland preservation and agricultural development in the county, including population and economic growth, housing, transportation, utilities, communications, business development, community facilities and services, energy, waste management, municipal expansion and environmental preservation;
- Agricultural uses of land, including key agriculture specialties at the time of plan adoption;
- Key agricultural resources;
- Key agricultural infrastructure and facilities;
- Significant trends in the county related to agricultural land use, production, agricultural enterprises and conversion of land out of agricultural use;
- Anticipated changes to agricultural production, processing, supply and distribution;
- Goals for agricultural development in the county;
- Means of increasing housing density in developed areas not designated for farmland preservation; and
- Key land use issues related to farmland preservation and promotion of agricultural development, as well as county plans to address those issues.

Although not all municipalities have engaged in comprehensive planning, the statutes require that counties with comprehensive plans are to incorporate their farmland preservation plans in their comprehensive plans. The two plans are to be consistent.

Administrative rule ATCP 49 also further

clarifies the conditions under which a county determines land is to be designated for long-term agricultural preservation. The statutes require a county plan to identify agricultural resources, including land, soil types, water resources, and also to state the rationale used for identifying areas to be preserved for agricultural use. ATCP 49 additionally requires the stated rationale to be based on objective criteria applied to parcels, including the following considerations: (a) whether soils are suitable for agricultural production; (b) whether land has historically been used for agricultural or agriculture-related purposes; (c) whether the land is proximal to agricultural infrastructure; (d) whether designated agricultural lands, together with other open space or natural resource areas, would create contiguous blocks of undeveloped or preserved areas; and (e) whether the land, despite any potential development pressure in the subsequent 15 years, is not planned for non-agricultural development during that time. Further, ATCP 49 requires a county's designation rationale to be applied consistently across the county, to the extent practicable, and not to be based primarily on landowner preference.

DATCP reports it reviews draft farmland preservation plans informally or preliminarily to give counties feedback on whether drafts are consistent with statutory requirements. The Department also holds workshops for county and municipal officials to provide additional information on procedures necessary to complete a farmland preservation plan and submit it for certification.

Planning Grants

DATCP is authorized to provide planning grants to counties for up to 50% of the county's cost of preparing a farmland preservation plan. Grants may only be disbursed on a reimbursement basis. Counties may request reimbursement for up to 50% of the grant award prior to the plan being submitted for DATCP certification, with

the remainder claimable following submission of the plan. Further, the statutes specify that counties with existing preservation plans scheduled to expire soonest take priority for grant awards. 2013 Act 20 provided \$374,200 general purpose revenue (GPR) annually for planning grants in the 2013-15 biennium. 2009 Act 28 also created an appropriation from the segregated (SEG) working lands fund, which is discussed later in greater detail, for farmland preservation planning grants; this appropriation has not received any expenditure authority since its creation, however.

DATCP through 2014-15 has been appropriated \$1,538,400 GPR for planning grants, not including \$374,200 lapsed to the general fund in 2011-12. As shown in the grant awards and expenditures listed in Table 1, DATCP had awarded approximately \$1,435,500 as of November, 2014. Total disbursements are approximately \$740,000, including \$130,300 in 2010-11, \$110,300 in 2011-12, \$235,300 in 2012-13, \$218,600 in 2013-14 and \$45,500 in 2014-15 through November, 2014. No GPR may be encumbered under the appropriation after June 30, 2016. The appropriation from the working lands fund, although currently unfunded, has no similar sunset.

Plan Expiration

Agricultural preservation plans certified before the effective date of 2009 Act 28 remain in effect, provided their certifications have not expired or been withdrawn. (DATCP has general statutory authority to withdraw certification for plans that materially violate statutory requirements.) For existing certified plans that specify their own expiration dates, they will expire on the date established. However, for plans with no expiration date specified as of Act 28 taking effect, a county's existing plan expires on the basis of the county's population change per square mile between the 2000 U.S. Census and the 2007 population estimates by the Department of Administration (DOA). Expiration dates based on popu-

Table 1: Farmland Preservation Planning Grants

County	Year Awarded	Amount Awarded	Disbursed	Available
Adams	2013	\$20,000	\$0	\$20,000
Barron	2013	29,000	0	29,000
Brown	2010	30,000	30,000	0
Burnett	2013	18,655	0	18,655
Chippewa	2011	30,000	0	30,000
Columbia	2011	30,000	30,000	0
Crawford	2014	30,000	0	30,000
Dane	2010	30,000	30,000	0
Dodge	2010	17,000	17,000	0
Door	2011	10,100	10,100	0
Douglas	2014	22,560	0	22,560
Dunn	2011	30,000	0	30,000
Eau Claire	2011	30,000	15,000	15,000
Florence	2014	23,013	0	23,013
Fond du Lac	2011	30,000	30,000	0
Green	2011	30,000	30,000	0
Green Lake	2014	30,000	9,866	20,134
Iowa	2013	30,000	0	30,000
Jackson	2014	9,503	0	9,503
Jefferson	2010	30,000	30,000	0
Juneau	2013	16,184	16,184	0
Kenosha	2010	30,000	30,000	0
La Crosse	2010	30,000	30,000	0
Lafayette	2014	22,500	0	22,500
Langlade	2014	20,833	0	20,833
Lincoln	2014	30,000	0	30,000
Manitowoc	2013	30,000	0	30,000
Marathon	2011	30,000	30,000	0
Marquette	2014	30,000	0	30,000
Monroe	2013	6,494	0	6,494
Oconto	2011	30,000	15,000	15,000
Oneida	2013	8,974	0	8,974
Outagamie	2010	30,000	20,467	0
Ozaukee	2010	30,000	30,000	0
Pepin	2013	17,000	0	17,000
Pierce	2011	30,000	30,000	0
Polk	2011	30,000	15,000	15,000
Portage	2011	30,000	0	30,000
Racine	2010	30,000	30,000	0
Richland	2014	30,000	0	30,000
Rock	2010	30,000	30,000	0
St. Croix	2010	30,000	30,000	0
Sauk	2011	30,000	30,000	0
Sawyer	2014	12,553	0	12,553
Shawano	2013	30,000	30,000	0
Sheboygan	2011	30,000	25,862	0
Trempealeau	2013	30,000	0	30,000
Vernon	2013	30,000	0	30,000
Vilas	2013	19,000	0	19,000
Walworth	2010	30,000	30,000	0
Washburn	2014	15,500	0	15,500
Washington	2010	30,000	30,000	0
Waupaca	2013	30,000	15,000	15,000
Waushara	2013	10,500	10,500	0
Winnebago	2010	30,000	30,000	0
Wood	2013	<u>26,125</u>	<u>0</u>	<u>26,125</u>
Total		\$1,435,494	\$739,979	\$681,844

Note: A total of \$13,671 in awarded funds has gone unused. This amount is not included in the disbursed or available amounts.

Table 2: Population-Based Expirations of County Farmland Preservation Plans

Expiration Date	Population Increase Per Square Mile, 2000-2007
December 31, 2011	More than 9 persons
December 31, 2012	3.76 persons to 9 persons
December 31, 2013	1.76 persons to 3.75 persons
December 31, 2014	0.81 persons to 1.75 persons
December 31, 2015	Up to 0.8 persons

lation increases occur as shown in Table 2. Appendices I and II show the expiration dates of all county farmland preservation plans, as well as the certification and recertification dates of each county's most recent farmland preservation plan. DATCP is to set expiration dates up to 10 years from certification for new and revised plans.

The DATCP Secretary has authority under the statutes to extend a plan's certification for up to two years to allow the county to concurrently form or revise its comprehensive plan and its farmland preservation plan. As of July 1, 2014, 43 counties had used this authority with respect to farmland preservation plans. These counties are listed in Table 3. Although the statutes limit extensions to two years, DATCP in one instance (Racine County) has granted an extension totaling three years, as shown in Table 3.

The population-based expiration dates and the 10-year certification limit are intended to require counties both to reassess their existing farmland preservation plans and to revisit the plans regularly in the future. These requirements arose from an observation of the Working Lands Steering Committee, which reported in 2006 that many county plans had been in effect for a decade or more without revision, despite the county's development trends and land uses having changed substantially in the intervening period.

ATCP 49 specifies that a farmland preservation plan with a certification that has expired must have a plan reauthorized by DATCP by the December 31 of the year following the expiration

Table 3: Extensions of County Farmland Preservation Plans

County	Original Expiration	Date under Extension
Dodge	2009	2010
Jefferson	2009	2011
Brown	2011	2012
Dane	2011	2012
Kenosha	2011	2013
La Crosse	2011	2012
Ozaukee	2011	2012
Racine	2011	2014
St. Croix	2011	2012
Walworth	2011	2013
Washington	2011	2012
Winnebago	2011	2012
Chippewa	2012	2014
Columbia	2012	2013
Door	2012	2014
Dunn	2012	2014
Eau Claire	2012	2014
Marathon	2012	2013
Pierce	2012	2013
Polk	2012	2014
Barron	2013	2015
Iowa	2013	2015
Monroe	2013	2014
Oconto	2013	2014
Pepin	2013	2015
Portage	2013	2015
Vernon	2013	2015
Waupaca	2013	2014
Waushara	2013	2014
Adams	2014	2016
Burnett	2014	2015
Green Lake	2014	2015
Jackson	2014	2016
Lincoln	2014	2016
Marquette	2014	2015
Oneida	2014	2015
Sawyer	2014	2015
Trempealeau	2014	2016
Washburn	2014	2016
Crawford	2015	2017
Douglas	2015	2016
Richland	2015	2017
Taylor	2015	2016

NOTE: All expirations occur on December 31 of the year shown.

to allow any farmland preservation zoning ordinances in effect in the county to continue conferring tax-credit eligibility for lands located in a farmland preservation zoning district in the county. For example, if a county had a farmland preservation plan that expired December 31, 2014, the county must have a farmland preservation plan recertified by December 31, 2015, or DATCP would be permitted under ATCP 49 to withdraw certification of any farmland preservation zoning ordinance in effect in the county for 2015. In such a case, the withdrawal would make landowners in farmland preservation zoning districts in the county ineligible to claim farmland preservation tax credits for the 2015 tax year, as the statutory provisions for the farmland preservation tax credit require a zoning ordinance to be in effect at the close of the tax year to which a credit claim pertains. (A subsequent section on farmland preservation zoning discusses the requirements for acreage being consistently included in both a farmland preservation plan and a farmland preservation zoning district.)

Farmland Preservation Zoning

The statutes authorize cities, villages, towns or counties to adopt farmland preservation zoning ordinances. These ordinances generally limit land uses within designated farmland preservation zoning districts. DATCP estimates approximately 5.5 million to 6 million acres in Wisconsin were under a certified farmland preservation zoning ordinance as of July 1, 2014. This equates to about one-sixth of the state's 34.7 million land acres and about 40% of the 14.6 million estimated farmland acres as of 2012.

Counties and municipalities are not required to enact farmland preservation zoning ordinances, nor were they required to do so prior to 2009 Act 28. As such, the statutory provisions for farmland preservation zoning should not be construed as statewide standards for all agricultural

land or as limiting municipalities' ability to engage in any other type of zoning. Rather, the requirements for certified farmland preservation zoning ordinances are minimum standards that zoning ordinances must meet for certification, which allows owners of lands in zoning districts to be eligible for farmland preservation tax credits.

Like a farmland preservation plan, a farmland preservation zoning ordinance must clearly identify and map zoning districts in which land uses are limited to those specified in the ordinance. The ordinance also must include any jurisdictional, organizational and enforcement provisions necessary to administer the ordinance. A certified ordinance must be substantially consistent with a certified farmland preservation plan, and, except for allowances that may be made by administrative rule, farmland preservation zoning districts may not include any lands not included in a farmland preservation area. Since Act 28, this congruity requirement has disqualified some previously agricultural-zoned acreage from being eligible for tax credits, due to certain jurisdictions that contained no lands identified for agricultural preservation in a revised farmland preservation plan. DATCP reports at least 25 municipalities since the passage of 2009 Act 28 have lost eligibility for farmland preservation zoning due to not having any lands identified in recreated county farmland preservation plans.

ATCP 49 provides numeric thresholds to further clarify the statutory requirements that a farmland preservation zoning ordinance must be "substantially consistent" with a certified farmland preservation plan. Specifically, ATCP 49 requires at least 80% of the acres identified for farmland preservation in a certified farmland preservation plan to be included in a farmland preservation zoning district, or another type of district that imposes restrictions at least as stringent as the farmland preservation zoning ordinance. Such allowable land designations would include those for open space or conservancy are-

as, but not for most general residential, commercial or industrial uses. The Department may approve an ordinance that has between 70% and 80% of the area planned for farmland preservation included in farmland preservation zoning districts, provided the municipality can demonstrate a reasonable and objective justification for that level of consistency.

Although counties, towns, villages, and cities may enact farmland preservation zoning ordinances, the type of municipality administering an ordinance may vary throughout the state. Appendix III identifies all municipalities with certified farmland preservation zoning ordinances as of November, 2014. Appendix III also identifies whether towns are under a county-administered ordinance or are administering their own zoning ordinances, both of which are possible under the statutes.

All villages and cities shown in Appendix III are incorporated and exercise their own zoning. Certain villages and cities have also exercised extraterritorial jurisdiction in accordance with statutory provisions, meaning they have approval powers over zoning activities taking place up to three miles outside the corporation limits, depending on the size of the jurisdiction. The Appendix notes areas that have reserved extraterritorial jurisdiction.

Farmland preservation zoning districts may coincide with other zoning designations that may impose other classifications and requirements on the use of the land. These other designations are known as overlay districts. Provided that the overlay district is clearly identified by a zoning authority, it may coexist with a farmland preservation zoning district as long as the overlay district does not remove land restrictions from the farmland preservation zoning district.

Allowed Land Uses

As shown in Table 4, land uses in farmland preservation zoning districts may be: (a) permit-

ted uses, which are presumptively allowed; (b) conditional uses, which a zoning authority may allow but must specifically review and authorize with a conditional use permit; or (c) other land uses DATCP may specify by administrative rule. Additionally, the statutes allow the continued use of nonconforming uses, which are those that do not conform to an ordinance but were not in violation prior to an ordinance taking effect. Under general municipal law, there may be restrictions on altering or expanding nonconforming structures without bringing the structures into compliance.

Nonfarm Residences and Other Conditional Uses. In addition to permitted uses, certain uses may be undertaken if the applicable zoning authority approves a conditional use permit for the structure or activity. One such use is individual nonfarm residences, the provisions for which were somewhat more restrictive prior to 2009. Under previous law, the only residences allowed in exclusive agricultural zoning districts were those that had a use consistent with agricultural use, which generally means land would not be converted from agricultural use, nor would an activity limit the agricultural use of surrounding lands or impair agricultural operations on other properties. Additionally, the residence had to be occupied by: (a) an owner of the parcel on which the residence was located; (b) a person earning the majority of his or her gross income from conducting farming operations on the parcel, and the family of such a person; (c) a parent or child of an owner conducting the majority of farming operations on the parcel; or (d) a parent or child of the parcel's owner, provided the owner previously conducted the majority of farming operations on the parcel.

2009 Act 28 changed these provisions relating to nonfarm residences, which is any residence not under the definition of a farm residence. A farm residence is located on a farm and is: (a) the only residence on the farm; or (b) occupied by the farm owner or operator, or his or her parents or

Table 4: Allowable Uses in Certified Farmland Preservation Zoning Districts

Use/Description

Agricultural

- Crop or forage production.
- Keeping livestock.
- Beekeeping.
- Nursery, sod or Christmas tree production.
- Floriculture.
- Aquaculture.
- Fur farming.
- Forest management.
- Enrollment in a federal agricultural commodity payment program.
- Enrollment in a federal or state agricultural land conservation payment program.
- Other agricultural uses identified by DATCP administrative rule.

Accessory

- A building, structure or improvement that is an integral part of or incidental to an agricultural use.
- An activity or business operation that is an integral part of or incidental to an agricultural use.
- A farm residence.
- A business, activity or enterprise, regardless of an association with an agricultural use, that is conducted by the owner or operator of a farm, and that requires no otherwise disallowed structures or improvements, employs no more than four full-time employees annually, and does not impair or limit current or future agricultural use of the farm or other protected farmland.
- Other accessory uses identified by DATCP administrative rule.

Agriculture-Related

- An agricultural equipment dealership.
- A facility providing agricultural supplies.
- A facility for storing or processing agricultural products.
- A facility for processing agricultural wastes.
- Other accessory uses identified by DATCP administrative rule; ATCP 49 includes facilities for providing veterinary services primarily for livestock.

Residential Uses

- Existing residences as of January 1, 2014, or a date specified in the ordinance, regardless of occupancy.
- Nonfarm residences with a conditional use permit, subject to density and siting standards.
- A nonfarm residential cluster, which is a group of contiguous parcels on which nonfarm residences are located, with all nonfarm residences in the cluster constructed to meet requirements for individual nonfarm residences, which are described below. A cluster requires a conditional use permit, but not a permit for each individual residence.

Other Uses

- Undeveloped natural resource areas or open-space areas; no permit required.
- A transportation, utility, communication, pipeline, electric transmission, drainage, governmental, institutional, religious, nonprofit community, nonmetallic mineral extraction, licensed oil and natural gas exploration or other use allowed under DATCP administrative rule, provided the activity is authorized by a conditional use permit.
- Uses mandated for a specific place under state or federal law; no permit required.

Note: Zoning authorities may elect to allow agricultural, accessory and agriculture-related uses with or without a conditional use permit.

children, or a person earning more than 50% of his or her gross income on the farm, or a certified migrant labor camp. Certified farmland preservation zoning ordinances may allow nonfarm residences as a conditional use in farmland preservation zoning districts, provided any residences meet the following conditions: (a) there will be no more than four dwelling units that are nonfarm residences, and no more than five dwelling units on the base farm tract; (b) the residence will not convert prime farmland from agricultural use or convert previous cropland, except woodlots, from agricultural use if the farm contains reasonable alternative locations for a nonfarm residential parcel or nonfarm residence; and (c) the residence will not significantly impair or limit the current or future agricultural use of other protected farmland.

To determine acreage allowable to be used for nonfarm residences, Chapter 91 and ATCP 49 create a unit known as the base farm tract. A base farm tract is defined by statute as a single contiguous farm or other tract as of the date of an ordinance's enactment or as of an earlier date established by the zoning authority. ATCP 49 also allows that a base farm tract need not be contiguous parcels, but rather may be all land in a farmland preservation zoning district under a single ordinance and under single ownership on the date the owner creates a new subdivided parcel or lot, regardless of any subsequent changes. A base farm tract therefore is a single unit that remains a reference point for future acreage-based determinations on the land, but the date at which tract is established may vary, depending on what standard is specified in a local ordinance.

Further, the acreage of the nonfarm residential parcel may be no more than one-twentieth the size of the remaining acreage of the base farm tract; in other words, there must be twenty acres remaining in the base farm tract for every acre in the nonfarm residential parcel.

The following is one example of how persons could construct new nonfarm residences under the acreage ratio and residence limits: A farmer with a 105-acre farm that contains one farm residence sells a total of five acres to four prospective buyers, all of whom are otherwise unassociated with the farm and will not be using the land for agriculture. (In this instance, the 105-acre farm is considered the base farm tract, assuming it was a single farm at the time the land was designated as a farmland preservation zoning district.) Each buyer purchases a 1.25-acre parcel to construct a nonfarm residence. This would create four nonfarm residences and five total residences on the base farm tract, which would be the maximum allowed. The five acres sold would entirely become nonfarm residential acreage, as the buyers would not be engaged in farming operations. The remaining farm acreage would be 100 acres, which would meet the required ratio of nonfarm residential acreage (five acres) to farm acreage (100 acres). In this example, each residence could be approved individually with a conditional use permit issued by the municipal zoning authority.

If the four 1.25-acre parcels were contiguous, one conditional use permit could be issued for all four, as they would qualify as a nonfarm residential cluster. Each buyer would not have to secure an individual conditional use permit in such a case. Nonfarm residential clusters are intended to allow for nonfarm residences in rural areas, but to do so without excessively removing land from agricultural production. The one-time approval process for a cluster is intended to be an incentive to encourage nonfarm residents to build in clusters. Such a conditional use was intended to allow for limited rural nonfarm residential development without significantly changing existing farmland preservation zoning districts. (Under prior law, most changes of farmland preservation zoning districts to nonfarm residential uses also would have been subject to a conversion fee as described in a separate section.)

In addition to the conditional uses listed above, a certified farmland preservation zoning ordinance may allow uses for transportation, communications, pipelines, electric transmission, utilities, drainage, governmental functions, institutional functions, religious activities, nonprofit community activities, and nonmetallic mineral extraction. However, any of these uses must be reasonable and appropriate relative to alternative locations outside the farmland preservation zoning district, and the locations of these uses must be consistent with the agricultural preservation purposes of the district. Specifically, this means the uses must be reasonably designed to minimize land conversions from agriculture or open-space use, and they must not substantially impair surrounding parcels' current or future agricultural uses, if the surrounding parcels are zoned for or legally restricted to agricultural use. If construction activities damage land in agricultural use, these damages are to be minimized and repaired, to the extent feasible. Allowances are made for uses specifically approved under state or federal law.

Ordinance Expiration

As is the case with farmland preservation plans, any exclusive agricultural zoning ordinance certification that was in effect prior to 2009 Act 28 remains in effect until its expiration date. A ordinance's certification expires either on a date declared in a DATCP certification order, or, if not so specified, that date determined by the population increase per square mile, in the county in which the zoning authority is located, between the 2000 U.S. Census and the 2007 population estimates by DOA. This is the same schedule used for population-based expiration dates of farmland preservation plans, except certifications would expire one year later so ordinances are consistent with plans. Table 5 lists the statutory expiration dates. Appendix III shows the expiration dates of farmland preservation zoning ordinance certifications currently in effect, as well as the number of jurisdictions with certified ordi-

Table 5: Population-Based Expirations of Farmland Preservation Zoning Ordinance Certifications

Expiration Date	Population Increase Per Square Mile, 2000-2007
December 31, 2012	More than 9 persons
December 31, 2013	3.76 persons to 9 persons
December 31, 2014	1.76 persons to 3.75 persons
December 31, 2015	0.81 persons to 1.75 persons
December 31, 2016	Up to 0.8 persons

nances currently in effect.

The DATCP Secretary has the same authority to extend certification of a farmland preservation zoning ordinance as exists for farmland preservation plans. As of July 1, 2014, DATCP had granted 106 extensions to zoning authorities since the enactment of Act 28. An extension allows eligible landowners to continue claiming farmland preservation tax credits for the duration of the extension. Although the statutes limit extensions of ordinance certifications to two years, DATCP has granted two extensions of two years each, or four years total, to the towns of Hortonia (Outagamie County) and Hartford (Washington County).

Beginning July 1, 2009, DATCP may certify an ordinance for up to 10 years. This period is identical to the maximum certification period of a farmland preservation plan, and is also intended to prompt zoning authorities to regularly review zoning districts and ordinances.

In addition, ATCP 49 requires that a farmland preservation zoning ordinance with an expired certification must seek recertification by the December 31 following the year in which the initial zoning ordinance certification expired. This is an identical requirement for that imposed on farmland preservation plans. For example, a municipality whose zoning ordinance expired December 31, 2014, must have a zoning ordinance recertified by December 31, 2015, to prevent landowners' farmland preservation tax credit eligibility from lapsing for the 2015 tax year.

The statutes specify that farmland preservation ordinance amendments are considered to be certified with the larger ordinance, except for the following instances: (a) comprehensive revisions of an existing ordinance; (b) extensions of the ordinance to a town not previously covered; or (c) other revisions that DATCP may specify by rule that would affect the ordinance's compliance with statutory requirements. ATCP 49 has further specified that ordinance amendments are not automatically certified if the amendment would do any of the following: (a) add uses not previously allowed in farmland preservation zoning districts; (b) eliminate findings and conditions that must be met before approving a use for a location in a farmland preservation zoning district; (c) increase the number of nonfarm acres or residences allowed in a farmland preservation zoning district; (d) eliminate findings required for rezoning land from a farmland preservation zoning district; or (e) result in the corresponding farmland preservation zoning ordinance map being inconsistent with the county farmland preservation plan.

The DATCP Secretary may withdraw certification of a farmland preservation ordinance if it fails to comply with statutory requirements for farmland preservation zoning ordinances. Also, under ATCP 49, certification may be withdrawn for those ordinances for which a farmland preservation plan has expired and not been recertified, as described earlier.

Conversion Fees

Beginning with the enactment of 2011 Act 32, there is no conversion fee to rezone lands from farmland preservation zoning districts. The fee, created under 2009 Act 28 and beginning with lands rezoned in 2010, was intended as a disincentive to convert land that had previously been designated for agricultural purposes, and that may have previously claimed farmland preservation tax credits. The fee also was intended to provide ongoing funding for farmland preservation

efforts, either by supporting DATCP administration of farmland preservation programs or by directly funding farmland preservation planning grants or the purchase of agricultural conservation easements, as described in separate sections. Opponents argued the fee created costs that placed certain landowners at a disadvantage in securing future nonagricultural development, and that other policy instruments in the farmland preservation programs were more critical to preserving lands for long-term agricultural uses than the conversion fee.

The fee did not apply to areas removed from farmland preservation zoning districts under an ordinance recertification, nor did it apply if rezoned lands were no longer designated for agricultural preservation under a certified county plan. Instead, rezoning lands with payment of the conversion fee allowed ordinances to be changed to account for nonagricultural development, but without submitting revisions for recertification, and provided the rezoning met other requirements described later, such as consistency with the county farmland preservation plan. The fee remains in effect for early terminations of certain farmland preservation agreements, which are discussed later.

Between January 1, 2010, and July 1, 2011, the minimum conversion fee was three times the value per acre of the highest-value category of tillable cropland in the city, village, or town in which the rezoned land is located. This is commonly known as the Grade 1 use value, as determined by the Department of Revenue (DOR), and was applied for the year in which the land is rezoned. For the 2014 tax year, the statewide average Grade 1 use value is \$209 per acre. In addition to the policy goals described above, linking the fee to an amount per acre was also intended to make the fee easier to administer than the conversion fee prior to 2009 Act 28, which involved a lien being placed against the rezoned property. Liens were for an amount equaling the farmland preservation tax credits claimed over the previous

10 years, plus interest.

Conversion fees under Act 28 were submitted to the local unit of government and paid by the party requesting the rezoning. The local government was then to submit to DATCP by each March 1 the minimum conversion fee for the acreage converted from farmland preservation zoning districts in the preceding year, along with a report of the acreage converted. It should be noted that local units of government were to submit conversion fees for all lands rezoned. Thus, if a rezoning took place at the municipality's initiative and not that of an individual, the municipality was to incur the cost of the rezoning.

2011 Act 32 repealed most of these provisions, along with allowances for zoning authorities to specify higher conversion fees within their local ordinances. Under current law, a zoning authority may rezone lands from farmland preservation zoning districts if it determines all the following: (a) the land is better suited for a use not allowed in the farmland preservation zoning district; (b) the rezoning is consistent with any applicable comprehensive plan; (c) the rezoning is substantially consistent with the certified county farmland preservation plan; and (d) the rezoning will not substantially impair or limit current or future agricultural uses of surrounding land parcels zoned for or legally restricted to agricultural use. Reporting requirements also still apply, meaning local governments must report to DATCP by each March 1 all acres rezoned the previous year, with accompanying maps showing the changes. DATCP reports although zoning authorities averaged about 60% reporting for the 2010 through 2012 calendar years, all authorities required to report annually did so for the 2013 calendar year. Local governments that are not counties also must submit the rezoning reports to the county in which they are located.

Prior to the enactment of 2009 Act 28, DATCP estimated annual conversions could be

perhaps 2,000 to 4,000 acres or more, equaling perhaps \$1.4 million to \$3.2 million in revenue to the working lands fund each year. Conversion fees collected by DATCP for 2010, the only full year for which rezoning conversion fees were required, totaled \$590,500, covering 779.1 converted acres. (A subsequent \$2,900 payment was received in 2013-14 after a county learned it had failed to make the payment as required while the rezoning conversion fee was in effect.) This equates to an average conversion fee of \$758 per acre for lands with an average Grade 1 use value of \$253 per acre. Although conversion fees still applied for rezoning occurring in 2011 prior to July 1, 2011, which was the effective date of Act 32, no fee collections were remitted to the working lands fund. Rather, a provision in Act 32 specified that local governments were to retain the collections for use in their own farmland preservation programs. DATCP has no direct information on the amount of these fees collected by local governments.

Table 6 shows converted acreage reported annually since the requirement first took effect following 2009 Act 28. DATCP reports the acreage increase between 2010 and 2011 was due mostly to one town rezoning acreage outside the comprehensive ordinance revision process.

Table 6: Farmland Preservation Zoning Acres Converted

Calendar Year	Acres	Units Reporting
2010	779	121
2011	9,460	115
2012	3,329	117
2013	4,423	177

Special Assessments

Counties, towns, villages, cities, special-purpose districts or other local governmental entities may not levy special assessments for sanitary sewers or water against land in agricultural use and located in a farmland preservation zoning district. However, local governments may ex-

clude these exempt agricultural lands from use of the improvements. These provisions do not apply to an owner who voluntarily pays an assessment after the assessing entity notifies the owner of the exemption.

Farmland Preservation Agreements

As under prior law, DATCP and willing landowners may enter into farmland preservation agreements, which are restrictive covenants under which DATCP and a landowner agree to limit the development on a property for a specified period of years. These limits allow land under the agreement to be eligible for certain levels of farmland preservation tax credits. If land under an agreement changes ownership, the agreement binds the purchaser for the remaining term of the agreement.

Farmland preservation agreements under 2009 Act 28 must be in effect for at least 15 years, and they must restrict the land to agricultural uses, accessory uses, or undeveloped natural resource or open-space uses. (Allowable agricultural and accessory uses are those shown in Table 4.)

As with existing farmland preservation plans and zoning ordinances, farmland preservation agreements created prior to Act 28 remain in effect except if terminated or if modified to allow a landowner to claim the farmland preservation tax credits as modified by Act 28. Agreements entered into prior to Act 28 may not be extended or renewed. New agreements must also conform to requirements established under Act 28.

To be eligible for a farmland preservation agreement, Act 28 requires lands must meet the following requirements: (a) the land is operated as part of a farm that produced at least \$6,000 in gross farm revenues during the taxable year preceding the year in which the owner applies for a

farmland preservation agreement, or the land is part of a farm that produced at least \$18,000 in gross farm revenues during the three taxable years preceding the year of application; (b) the land is in a farmland preservation area identified in a certified farmland preservation plan; and (c) the land is in an agricultural enterprise area, which is discussed later in greater detail. Additionally, ATCP 49 specifies that a farmland preservation agreement application may be denied if the applicant has excluded land from the application and DATCP determines the excluded land would be used for purposes either: (a) conflicting with the goals of the agricultural enterprise area; or (b) likely to impair or limit the agricultural use of other lands in the agricultural enterprise area or in the farmland preservation agreement.

Interested landowners may apply to the clerk of each county in which land to be under the agreement is located. State law requires the county to review the application for eligibility of the land, and requires the county to provide its findings in writing to the applicant within 60 days of application receipt. The county must notify DATCP of land meeting all requirements, as well as inform the Department of its findings with respect to the application. DATCP may enter into an agreement based on the county's findings, and it may also deny an agreement due to an incomplete application or the land being ineligible.

Prior to 2009, farmland preservation agreements could be terminated for specific reasons contained in the statutes. In certain instances, the holder would be subject to a lien on the property, however, for early relinquishment of the agreement, or for other violations of agreement terms. Table 7 shows the amounts of liens or penalties paid by persons relinquishing or violating agreements since 2003-04.

2009 Act 28 authorizes DATCP to terminate or release lands from an agreement if: (a) all

landowners under the agreement consent to termination; (b) DATCP finds that termination will not impair or limit agricultural use of other protected farmland; and (c) the landowners pay DATCP a conversion fee for each acre or portion of acre released from the agreement. The conversion fee is three times the Grade 1 use value, as determined by DOR, in the city, village or town in which the land at issue is located for the year in which the termination or release occurs; as an example, for the 2014 average Grade 1 use value of \$209 per acre, an average conversion fee would be \$627 per acre. All conversion fees are deposited to the segregated working lands fund. These provisions are identical to those previously applied to lands rezoned from farmland preservation zoning districts. Amounts in Table 7 distinguish between deposits to the state general fund as GPR, which are due on terminated farmland preservation agreements in effect prior to Act 28, and SEG revenues to the working lands fund for agreements entered or modified following Act 28.

Table 7: Payments for Violations or Relinquishment of Farmland Preservation Agreements

Year	Total Payments	Affected Acreage
2003-04	\$68,500 (GPR)	3,421
2004-05	24,900 (GPR)	2,051
2005-06	59,400 (GPR)	1,934
2006-07	4,500 (GPR)	554
2007-08	4,800 (GPR)	1,188
2008-09	10,700 (GPR)	362
2009-10	14,500 (GPR)	442
2010-11	14,500 (GPR)	668
2011-12	6,000 (GPR)	314
2012-13	43,900 (GPR)	1,217
	3,400 (SEG)	6
2013-14	17,000 (GPR)	388
	<u>1,500 (SEG)</u>	<u>2</u>
Total	\$273,600	12,547

DATCP may bring an action in Circuit Court to do any of the following: (a) enforce a farmland

preservation agreement; (b) restrain by temporary or permanent injunction a change in land use that violates a farmland preservation agreement; and (c) seek a civil forfeiture for a land use change that violates a farmland preservation agreement. A civil forfeiture may not exceed twice the fair market value of the land under the agreement at the time of the violation. The Department of Justice is required to provide legal services should DATCP seek any of these actions to enforce a farmland preservation agreement.

As under farmland preservation zoning ordinances, local governments are prohibited from levying special assessments for sanitary sewers or water against land in agricultural use and under a farmland preservation agreement, and local governments may exclude exempt lands from use of resulting improvements. Landowners may voluntarily pay an assessment after the assessing entity notifies the owner of the exemption.

DATCP reports that as of August 1, 2014, 1,789 farmland preservation agreements covering approximately 314,800 acres were in effect in Wisconsin. These agreements are shown by county in Appendix IV. Of the active agreements, 1,391 agreements covering 227,100 acres took effect under the provisions preceding 2009 Act 28. An additional 398 agreements, covering 87,600 acres, were created in agricultural enterprise areas under provisions established under Act 28.

Of the agreements in effect under the 2007 statutes, 69 agreements covering 16,000 acres took effect under 2009 Act 374. That act allowed DATCP to process and create farmland preservation agreements under provisions in effect prior to Act 28, provided the agreements were applied for between January 1, 2008, and June 30, 2009, and processing was not completed by July 1, 2009. These agreements are not subject to requirements created by Act 28, but rather the eligibility requirements discussed in Chapter 2.

These agreements are, however, eligible to claim either the previous farmland preservation tax credit, which is based on income and property tax liability, or the per-acre credit that takes effect with the 2010 tax year if the landowner agrees to modify the agreement. Agreements created under Act 374 may be valid for up to 10 years. DATCP had, at one point, expected up to 80 agreements to be created under this act.

The total of pre-Act 28 agreements also includes 69 agreements covering 17,400 acres that have modified terms of the agreement to allow the landowner to claim the per-acre farmland preservation tax credit created in Act 28. Pre-Act 28 agreements modified to claim the per-acre tax credit are subject to the Act 28 conversion fee, as opposed to the lien assessed under the 2007 statutes.

Table 8 shows expired or expiring agreements and associated acreage by year beginning in 2000. Beginning with 2009, the number of agreements expiring annually is expected mostly to decrease. After 2021, data show annual expirations are expected to average about 20 agreements per year.

Table 8: Acreage Expiring from Farmland Preservation Agreements by Year

Year	Agreements Expiring	Total Acreage	Average Acreage
2000 (Actual)	270	31,521	116.7
2001 (Actual)	307	34,342	111.9
2002 (Actual)	375	43,171	115.1
2003 (Actual)	570	70,269	123.3
2004 (Actual)	375	44,897	119.7
2005 (Actual)	803	86,387	107.6
2006 (Actual)	1,056	106,173	100.5
2007 (Actual)	1,371	142,939	104.3
2008 (Actual)	1,864	169,671	91.0
2009 (Actual)	1,207	128,117	106.1
2010 (Actual)	916	95,366	104.1
2011 (Actual)	810	101,274	125.0
2012 (Actual)	609	73,267	120.3
2013 (Actual)	<u>368</u>	<u>50,828</u>	138.1
Subtotals	10,901	1,178,222	108.1
2014 (Est.)	286	39,542	138.3
2015 (Est.)	169	22,527	133.3
2016 (Est.)	146	22,710	155.5
2017 (Est.)	166	28,102	169.3
2018 (Est.)	179	32,729	182.8
2019 (Est.)	152	29,676	195.2
2020 (Est.)	74	9,228	124.7
2021 (Est.)	<u>28</u>	<u>4,423</u>	158.0
Subtotals	1,200	188,937	157.4

when evaluating petitions. Unlike the policy instruments discussed earlier, AEAs did not exist prior to 2009 Act 28.

The process for designating AEAs begins with a petition from: (a) each unit of government in which the area would be located; and (b) owners of at least five eligible farms located in the proposed area. Eligible farms are those that produced at least \$6,000 of gross farm revenues in the taxable year preceding the petition or those that produced at least \$18,000 in gross farm revenues during the three taxable years preceding the petition.

In addition to other application materials, a petition must include: (a) a clear description of agricultural and other land uses in the proposed AEA; (b) a clear description of the agricultural

Agricultural Enterprise Areas

Agricultural enterprise areas (AEAs) are intended to be areas targeted for agricultural preservation and development, namely for preserving, expanding and developing farms and other agribusiness. AEAs must: (a) consist of contiguous parcels, including parcels separated only by a lake, stream, or transportation or utility right-of-way; (b) be located entirely in a farmland preservation area identified in a certified farmland preservation plan; and (c) be land primarily in agricultural use. DATCP also is to give preference to areas of at least 1,000 acres of land

land use and development goals for the proposed AEA; (c) a plan for achieving the goals, including any anticipated funding, incentives, cooperative agreements, land or easement purchases, land donations or public outreach; and (d) a description of current or proposed land use controls in the proposed AEA, including farmland preservation agreements. A petition may identify persons who propose to cooperate in achieving land use and development goals.

As noted earlier, landowners cannot enter into new farmland preservation agreements, and therefore are not eligible for the highest levels of farmland preservation tax credits, unless land under the agreement is located in an AEA. If DATCP were to modify or terminate a designation such that land covered by a farmland preservation agreement is no longer in an AEA, the agreement would remain in effect for the specified term, but it could not be renewed or extended.

2013 Act 352 authorizes DATCP to have up to two million total acres designated in AEAs; this is a sum slightly smaller than the combined areas of Marathon, Portage and Wood Counties. Act 352 increased the previous limit of one million acres established in 2009 Act 28.

Beginning with the first AEA designations in 2010, DATCP has designated all areas for which it has received petitions. In three instances, petitions have been denied designation in a first application cycle but approved upon reapplication in a later cycle. Also, in some cases the Department has modified proposed areas. Examples of such instances include: (a) acres not being located in areas designated for farmland preservation under a certified farmland preservation plan; and (b) acres of public land, which would count against statutory acreage limits, but would not be eligible for farmland preservation agreements. Acreage was also reduced to comply with a 200,000-acre limit that applied prior to January 1, 2012. DATCP also has revised certain areas in

the event a revised county farmland preservation plan does not include AEA acreage for long-term agricultural use. 2011 Act 253 specifies DATCP is to establish AEAs by an order published in the official state newspaper.

In total, the state currently has 29 AEAs located in 22 counties and comprising 925,000 acres, or just under one-half of the total statutory cap. All AEAs designated in the first five petition rounds are listed in Appendix V.

Soil and Water Conservation

The farmland preservation program requires landowners to comply with soil and water conservation standards and practices to receive farmland preservation tax credits. Agricultural performance standards generally are established in administrative rule NR 151 (runoff management) under the Department of Natural Resources (DNR), while administrative rule ATCP 50 (soil and water resource management) specifies conservation practices landowners can implement to achieve the standards specified by DNR.

In general, these requirements include completing and following a nutrient management plan for fertilizers and manure applied to fields, adopting practices to prevent soil erosion on cropland and pasture, and preventing any discharges of animal waste to state waters. Under ATCP 50, landowners also can be considered compliant if they agree to implement a performance schedule that, if followed, would bring the farm operation into compliance within at most five years of the landowner being informed of conservation obligations. County land conservation committees are to continue to monitor compliance, including conducting an inspection at least once every four years on each farm for which the owner claims tax credits. DATCP is to review at least once every four years each land

conservation committee's compliance with inspection duties.

In addition to being required to conduct on-site inspections every four years, county land conservation committees may require landowners to self-certify compliance with soil and water conservation standards. Counties, in turn, generally are required under Chapter 71 (income and franchise taxes) to issue a certificate of compliance for a landowner to file with a claim for the per-acre farmland preservation tax credit, unless the claimant received the farmland preservation credit in the preceding year and the farm's acreage and compliance status have not changed. The pre-2010 farmland preservation tax credit also requires a certificate from the zoning authority affirming compliance with land use requirements, soil and water conservation requirements, the location of the property relative to the zoning ordinance, and the status of the zoning ordinance. The requirement that a landowner submit a certification is waived under the pre-2010 credit if circumstances noted under a previous certification have not changed.

If a landowner does not self-certify, is found not to be complying with standards, or does not allow reasonable inspection by county conservation staff, the county is to issue a notice of non-compliance. A copy of any notice of non-compliance is to be sent to DOR, which disqualifies the landowner from receiving tax credits until the notice has been withdrawn by the county.

In 2014, DATCP surveyed all counties in which there are credit claimants regarding the counties' compliance inspection activities in 2013. Survey results suggest approximately 3,600 claimant farms were inspected. Counties issued approximately 1,600 certificates of compliance and approximately 1,500 performance schedules. Counties issued 255 notices of non-compliance, and 36 non-compliance notices were cancelled.

In addition to annual county surveys, DATCP reports it reviewed all counties' compliance monitoring activities between 2010 and 2012. This was intended to be a comprehensive examination of statewide compliance and compliance monitoring following the farmland preservation program changes under 2009 Act 28. This examination included on-site reviews of county programs with county conservation staff. Relative to approximately 15,200 claimants reviewed, DATCP estimates 3,300 claimants had been determined to be complying with soil and water conservation standards, of which 1,100 had been issued formal certificates of compliance by the county land conservation department. Approximately 4,100 claimants were given schedules to comply with soil and water conservation requirements by 2015. The remaining 7,800 claimants had not yet been contacted by county conservation staff persons.

DATCP further reported 61 counties were maintaining lists of active farmland preservation program participants, and 46 counties, or 75% of those tracking program participation, were issuing self-certifications to these persons for purposes of claiming tax credits. Nearly as many counties (43) suggested their staffing was insufficient to conduct sufficient compliance reviews at rates that would fulfill statutory requirements of reviewing landowners' compliance once every four years.

To maintain landowner compliance with soil and water conservation standards, 52 counties reported working with noncompliant landowners to attain compliance, such as by placing lands on compliance schedules, prior to issuing formal notices of non-compliance. Additionally, some counties reported their efforts to ensure compliance with conservation standards included targeting cost-share funding under either the DATCP soil and water resource management (SWRM) program or the DNR programs for nonpoint source water pollution abatement to farms claiming farmland preservation tax credits. Other

counties directed these funds either on geographic, complaint, or first-come, first-served bases. (Additional information on these cost-sharing programs is available in the Legislative Fiscal Bureau informational paper "Nonpoint Source Water Pollution Abatement and Soil Conservation Programs.") DATCP reports it will begin its next comprehensive review of county farmland preservation programming in 2016.

Purchase of Agricultural Conservation Easements (PACE)

An agricultural conservation easement is a perpetual agreement under which DATCP and cooperating entities may purchase the rights to future nonagricultural development from willing landowners. This purchase restricts the landowner in perpetuity from developing the farm parcel for nonagricultural purposes. These easements are intended to ensure the long-term availability of land for agricultural use and development. Perpetual easements may, in some cases, anchor the long-term agricultural development of a rural area, particularly in agricultural enterprise areas and farmland preservation zoning districts, as a complement to each of the policy instruments described earlier, which are temporary to varying degrees. In certain municipalities in Wisconsin, and in other states with similar programs, these easement programs are known as the purchase of development rights (PDR) or transfer of development rights (TDR).

To assist with administration of the program, the statutes require the appointment of a council to advise DATCP on the administration of the PACE program, although the statutes do not specify the council's form or membership. The PACE Council was first appointed in 2009, consisting of 16 members representing farmers, agribusinesses, environmental and conservation groups, local government representatives, planning and land use

experts, land trusts and the DATCP Board. The PACE Council after its creation advised DATCP staff on implementing and modifying program provisions.

As of July 1, 2011, the effective date of 2011 Act 32, the PACE program was effectively suspended. Purchases closed on 17 easements throughout the 2011-13 biennium; these are listed in Appendix VI. The program remains authorized by statute, but Act 32 modified PACE requirements and funding such that the program would be inactive at least until the completion of a program evaluation required of DATCP under Act 32. The PACE Council has not met since 2011, and no subsequent application rounds have taken place.

The sections below detail the provisions of an easement and also describe the PACE program's administration and funding while it was active.

Application and Selection Procedures

PACE applications are to be submitted by cooperating entities, which are cities, villages, towns, counties or nonprofit conservation organizations. A proposed easement must be located in a farmland preservation area identified in a county's certified farmland preservation plan. A proposed easement does not have to be located in a farmland preservation zoning district or an agricultural enterprise area, but DATCP ranking criteria did give greater consideration to land under these designations. DATCP must also find that a proposed easement serves a public purpose.

The PACE Council established the following additional criteria:

- The easement's location must be consistent with a local comprehensive plan, if one exists;
- A qualified soil and water conservation plan must be in effect for the property;

- At least 50% of the property must be in cropland, pasture or grassland;

- The landowner must attest to having produced at least \$6,000 in gross farm revenues during the relevant tax year, or \$18,000 during the previous three tax years; and

- All landowners sign a statement declaring their willingness to convey the proposed easement.

The eligibility criteria listed above, particularly the revenue and land use requirements, are intended to ensure easements will be covering land that is actively and primarily engaged in production agriculture.

The statutes specify that DATCP preliminarily select easements to receive funding after evaluating applications on the following criteria:

- The value of the easement in preserving or enhancing agricultural production capacity;

- The importance of the easement in protecting or enhancing waters of the state or other public assets;

- The easement's effect on conservation of important or unique agricultural resources such as prime soils;

- The consistency of the easement with local land use plans and zoning ordinances;

- The easement's effect on enhancing agricultural enterprise areas;

- The availability, practicality, and effectiveness of alternative methods to preserve the land that would be under the easement;

- The proximity between land that would be subject to the easement and other land protected for agricultural or conservation use, and the degree

to which the easement would enhance that protection;

- The likely cost-effectiveness of the easement in preserving the land for agricultural use;

- The likelihood that the land would be converted to non-agricultural use if not protected by the easement; and

- The apparent willingness of each landowner to convey the easement.

The Department, in cooperation with the PACE Council, established a worksheet to further clarify these considerations and assign point values to each for ranking applications. The program's most recent ranking criteria are shown in Appendix VII.

It should be noted that while the program was active, several scoring categories gave lower priority to easement proposals either under significant development pressure, or under little to no development pressure. For example, a parcel was to receive no points if it is either within one-half mile of a freeway interchange or more than 15 miles from an interchange. These provisions were intended to maximize the cost-effectiveness of purchases by avoiding: (a) easements that would be reasonably likely to create small, isolated areas of agricultural uses surrounded by commercial, urban or suburban areas in the near future; and (b) easements that are remote and not imminently vulnerable to being diverted from agricultural use.

The first application period following the program's creation began in March, 2010, and DATCP preliminarily approved 16 of 36 applications in August, 2010. Two of the 2010 selections dropped from the program and never proceeded to closing. Three other farms from the original group selected had multiple ownership structures over the property, such as some acreage being held under a limited-liability corporation while other acreage was held individually by the land-

owner. To maintain clarity in title and the recording of easements, the Department entered separate easements for each tract held under a different ownership structure, and the three dual-owned farms each were covered by two easements. Therefore, 17 easements were eventually closed, the last being in September, 2012.

DATCP received 40 applications in its second application period that ended February, 2011. However, DATCP took no action on the second round of applications due to the program's impending suspension. DATCP was required under 2009 Act 28 to solicit applications annually from entities interested in participating in the program. This requirement was repealed under 2011 Act 32, and no future application periods are anticipated until the scope of the program and funding, if any, is clarified in future legislation.

Easement Purchasing

Cooperating entities whose applications are approved handle much of the documentation and payment associated with the purchase. Specifically, cooperating entities must submit to DATCP a copy of the proposed easement, an estimate of the purchase and transaction costs, the record of a title search, and, if applicable, a description of how material title defects will be eliminated and how material property conflicts will be either eliminated or subordinated to the proposed easement. Following acceptance of these documents, DATCP may enter into written contracts for all approved easement purchases. Contracts are to specify the Department's participation in the easement purchase, including the portion of costs it will reimburse. The cooperating entity is to pay all easement and transaction costs up front subject to reimbursement under the contractual agreement. The costs DATCP covered in the 2010 funding cycle are discussed later in greater detail.

Appraisals. In addition to the required documentation noted above, any preliminarily ap-

proved easement application is to be appraised by a certified appraiser. The appraisal may not be commissioned by the owner of the land that would be subject to the easement. The statutes also require additional actions for certain easements estimated to have higher purchase prices. First, if an approved easement is estimated by DATCP to have a value exceeding \$350,000, DATCP is required to obtain another independent appraisal. Twelve proposed easements from the 2010 cycle were required to obtain a second appraisal.

Legislative Review. Second, if DATCP proposes to enter into a contract for more than \$750,000 in purchase and transaction costs for any single easement, the purchase of that easement must be submitted to the Joint Committee on Finance under a 14-day passive review process. Under such a review, an easement purchase would be approved if, within 14 working days of receiving notification, the Committee's Co-chairs did not schedule a meeting to review the purchase. If a meeting of the Committee were to be scheduled, the purchase would be approved unless a majority of Committee members present voted to modify or deny the proposal. No PACE transactions have ever been submitted for Joint Finance review.

Transaction Terms and Procedures. The portion of an easement that DATCP may pay is up to 50% of the easement's fair market value, as determined following all necessary appraisals. Landowners in some instances may choose to donate a portion of the fair market value of the easement. Under such an occurrence, DATCP may still pay up to 50% of the fair market value. The cooperating entity would realize the monetary benefit of the donation in such an instance.

DATCP reports at least 10 of the easements purchased with state funds following the 2010 cycle were matched by landowner donations. In nine of these cases, the landowner donated 50% of the purchase price, with DATCP paying the remaining 50% to the landowner. Further, eight of these easements were closed prior to December 31,

2011; this was the expiration date of a federal income-tax incentive allowing temporarily higher deductions from the donor's adjusted gross income for real property interests contributed to charitable entities for conservation purposes. This incentive, sometimes known as the enhanced easement incentive, allowed persons donating real property interests for conservation purposes to deduct the value of the contribution, up to 50% of the claimant's adjusted gross income for the tax year for most individuals, or up to 100% of adjusted gross income for qualified farmers and ranchers, minus other charitable contributions of the claimant. Therefore, depending on a landowner's annual income and the purchase price of an easement, a PACE participant could deduct from his or her taxable income a significant amount, and perhaps all, of the amount donated to the transaction.

In addition to its portion of the fair market value, DATCP may pay reasonable transaction costs related to the easement's purchase. The statutes specify that eligible transaction costs may include out-of-pocket expenses relating to the acquisition, processing, recording and documentation of an easement, including expenses for land surveys, land descriptions, real estate appraisals, title verification, preparation of legal documents, reconciliation of conflicting property interests, documentation of existing land uses, and closing costs, but not including a cooperating entity's costs for staffing, overhead or operations. DATCP is required to specify allowable transaction costs by administrative rule, consistent with the statutory definition. For this purpose, DATCP has emergency rule-making authority.

The Department had not begun an administrative rule-making process with respect to the PACE program prior to its suspension, nor does DATCP expect to begin drafting rules while the program is inactive. In the absence of an administrative rule, the PACE Council advised DATCP on allowable transaction costs, and the Department implemented these provisions through agreements in purchase contracts. DATCP established limits for

each easement purchase of 80% of eligible transaction costs up to a maximum state payment of \$12,000. Also, the Department established limits on reimbursements for specific categories of transaction costs, such as reimbursing certain attorney fees and documentation of existing land uses up to \$1,500 for each activity.

Following the purchase of an easement, a cooperating entity is to submit the easement document to DATCP, both immediately following the purchase and following the filing and certification of the easement document by the county register of deeds. After the easement is recorded and title conflicts, if any, have been resolved, cooperating entities may seek reimbursement of purchase and transaction costs.

Easement Terms

Landowners under an easement own the land and continue to pay property taxes on it, but DATCP and eligible cooperating entities jointly hold the easement. The land can be sold or passed to heirs, and a cooperating entity may assign its interest to either another eligible cooperating entity or DATCP, but the conditions of the easement remain part of the deed and binding on future owners.

The statutes require the easement to prohibit the covered land from being developed for a purpose that would make the land "unavailable or unsuitable for agricultural use." Land under easements must also comply with state standards for soil and water conservation, regardless of whether cost-sharing is made available to the landowner, and highly erodible land must be managed under a conservation plan. Standard language DATCP has drafted for easements, however, allow: (a) pre-existing uses and structures that do not have a material adverse impact on agricultural use, although these uses may not be materially expanded or altered without approval of the easement holders [DATCP and the cooperating entity]; (b) agricultural and accesso-

ry uses, as defined in Table 4; (c) undeveloped open spaces or natural resource areas; (d) fencing; and (e) government-approved natural resource conservation practices. Easements are intended to be neutral with respect to public access; specifically, the easements do not create public rights of access, or restrict any access that may exist at the time the easement takes effect.

In addition, the landowner may request other uses to be approved by the easement holders. Under this provision, DATCP and the cooperating entity may authorize additional uses including: (a) covering a designated agricultural area with impervious surfaces or gravel; (b) subdividing the covered land; (c) detaching or selling the agricultural or farmstead areas; (d) altering more than one acre of land in the agricultural area through activities such as excavation or filling, except in accordance with government-approved conservation practices, which are presumptively allowed; and (e) materially altering or expanding pre-existing uses or structures in the agricultural area, except in conjunction with approved conservation practices, which are presumptively allowed. However, the holders generally may not approve uses inconsistent with the overall purposes of the easement, namely the viability and productive capacity of the covered land.

DATCP, or any other easement holder, is authorized to enforce and defend the easement, including issuing notices of violation with demands for corrective action, or seeking injunctive relief in court. DATCP or a cooperating entity may also visit the premises to ensure compliance with the easement's terms, provided it occurs with prior notice to the landowner and at a reasonable time.

An easement may be terminated by court order under both of the following conditions: (a) the purpose of the easement can no longer be achieved due to a material change in circumstances, not counting a change in the land's value or a desired change in use by the landowner, or due to lawful application of eminent domain authority;

and (b) DATCP and any remaining easement holders are fully and fairly compensated. Compensation would include purchase and transaction costs plus a proportion of the increase in appraised value of the covered land, and proceeds would be deposited to the segregated working lands fund. The proportion is equal to the ratio of the easement cost to the total appraised value of the covered land as of the date the easement took effect.

Appropriations and Funding

2009 Act 28 provided \$12 million in general obligation bonding authority to DATCP for the purchase of agricultural conservation easements. The act offset this authorization by reducing GPR-supported bonding authority for the Conservation Reserve Enhancement Program (CREP) from \$40 million to \$28 million. CREP makes payments to landowners who remove agricultural lands from active production under 15-year agreements or perpetual easements to help control soil erosion and maintain or improve water quality. The state participates in CREP under an agreement with the U.S. Department of Agriculture (USDA). The agreement requires the state to provide a 20% match for up to \$200 million in federal payments to landowners.

2011 Act 32 repealed the \$12 million bonding authorization, as well as associated GPR and SEG debt service appropriations. Instead, the easements purchased in the 2010 cycle were funded by bonding authorized for the Knowles-Nelson Stewardship program. As shown in Appendix VI, DATCP paid approximately \$4.8 million for the easements and other eligible costs, including \$4,704,300 in acquisition costs and \$119,800 in transaction and appraisal costs. Stewardship funds were from the land acquisition subprogram. Debt service on Stewardship program land purchases is supported by a GPR sum-sufficient appropriation and a sum-certain, annual appropriation from the forestry account of the segregated conservation fund. Despite being supported by Stewardship funding, Act 32 specified the agricul-

tural conservation easements would not be subject to Stewardship program requirements, such as public access for hunting, fishing, trapping or other recreational uses.

Two appropriations created by 2009 Act 28 to fund agricultural conservation easements remain in the statutes: (a) a program revenue, continuing appropriation funded by gifts, grants and payments received for the modification, termination or sale of easements; and (b) an annual working lands SEG appropriation. No expenditures are authorized from these appropriations in the 2013-15 biennium, however.

Farm and Ranch Lands Protection Program Cooperation. In some instances, state funding under the PACE program combined with federal funding under the Farm and Ranch Lands Protection Program (FRPP) to leverage funding available under this federal program for the purchase of agricultural conservation easements. According to a January, 2014, report from the USDA and American Farmland Trust, total FRPP allocations in Wisconsin were \$22.8 million for easement acquisitions from the program's beginning in 1996 through the 2013 federal fiscal year, although the program has since been consolidated with other federal conservation programs under the federal Agricultural Act of 2014 (Farm Bill).

Much like state payments under PACE, FRPP allowed USDA to pay up to 50% of the cost of an easement, up to \$4,000 per acre. FRPP also required cooperating entities to pay at least 25% of the final purchase price of the easement after accounting for any donation in fair market value that may be granted by a landowner, meaning sufficiently large landowner donations could reduce the federal share below 50% of fair market value. State funds were to count toward a cooperating entity's required match under FRPP, up to the 50% not covered by federal funding. Although state agencies were not eligible to be cooperating entities under FRPP, DATCP remains a holder of any easement using PACE and FRPP funding, and

the program requirements are otherwise generally similar.

DATCP Administration and the Working Lands Fund

DATCP working lands programs are implemented by staff in DATCP's Division of Agricultural Resource Management. DATCP indicates six staff persons and one supervisor, constituting 5.9 FTE positions as of July 1, 2014, are partly or wholly assigned to working lands programs. Of this total, six are supported by the nonpoint account of the segregated environmental fund. An additional staff person is supported by other program revenue (PR) sources. These staff persons have overlapping responsibilities with CREP implementation and geographic information systems (GIS) used in other DATCP programs. Additionally, DATCP reports two staff persons supported by the segregated agrichemical management fund each are partially responsible for overseeing reviews of county soil and water compliance-checking programs. These staff persons allocate about 0.4 FTE total to working lands programs. DATCP estimates the annual salary and fringe benefits of all staff dedicated to Working Lands programs are \$471,000 as of July 1, 2014.

In addition to the appropriations noted earlier for planning grants and easement purchases, Act 28 created an annual working lands SEG appropriation for DATCP administration. This appropriation has no expenditure authority in the 2013-15 biennium. An annual working lands SEG appropriation was also created for DOR's administration of the farmland preservation tax credit, but this appropriation also has no expenditure authority in the 2013-15 biennium.

Working Lands Fund Condition

Revenues to the working lands fund under

current law include the following: (a) conversion fees for early termination of farmland preservation agreements; (b) proceeds from the sale, modification or termination of an agricultural conservation easement, which likely would be imposed by a court order; and (c) interest income on fund balances. To date, the fund's income has consisted primarily of conversion fees for lands rezoned from farmland preservation zoning districts in 2010, prior to the fee's repeal.

No expenditures have been made from appropriations supported by working lands SEG since the fund's creation, but two transfers to the general fund have occurred. To meet lapse and transfer requirements under various budget-related acts, DATCP and DOA transferred \$206,400 to the general fund in 2010-11. Further, 2011 Act 278 transferred \$250,000 working lands SEG to the general fund on a one-time basis in 2012-13 to offset an equal appropriation of GPR beginning in that year for the DATCP livestock premises registration program.

As shown in Table 9, the fund had a June 30, 2014, balance of \$143,300. The June 30, 2015, balance is estimated at \$147,400. It is anticipated annual revenues to the fund from farmland preservation agreement terminations or easement modifications, terminations or sales will be minimal. Interest earnings also are not expected to generate significant future income.

Table 9: Working Lands Fund Condition

	Actual 2012-13	Actual 2013-14	Estimated 2014-15
Opening Balance	\$384,900	\$138,800	\$143,300
Conversion Fees	3,400	4,400	4,000
Other Income	500	100	100
Expenditures	0	0	0
Transfers	<u>-250,000*</u>	<u>0</u>	<u>0</u>
Closing Balance	\$138,800	\$143,300	\$147,400

* General fund transfer of \$250,000 directed by 2011 Act 278.

Working Lands Program Reports

Biennial Reporting. DATCP, in cooperation with DOR, must report to the Board of Agriculture, Trade and Consumer Protection and DOA on farmland preservation no later than December 31, 2011, and biennially thereafter. The biennial reports must generally contain information on farmland availability, trends in farmland uses, participation in the program by municipalities and land owners, including tax credits claimed, soil and water conservation practices in use by tax credit claimants, and program costs and trends, including recommendations for program modifications. DATCP submitted biennial reports in December, 2011, and November, 2013.

DATCP reported several findings in the first two biennial reports, including:

- Counties often conduct farmland preservation planning with consideration given to soil quality, but in some instances counties also have deferred to individual landowner preferences instead. The Department contends such planning may tend to create less contiguity in both farmland preservation areas and non-agricultural areas, which could risk the long-term viability of the activity for which the land is designated;
- In general, less acreage is being designated in county plans for long-term agricultural use, although it is not clear whether this is due to changes in requirements, diminishing interest in farmland preservation programs and tax credits, a desire for additional nonagricultural development, or a combination of these factors. Decreases in farmland preservation zoning districts, through acreage rezoning or the expiration of ordinance certification, also has been observed; and
- Counties from 2011 through 2013 generally increased issuances of notices of noncompliance with soil and water conservation standards, increasing from 73 in 2009 to 273 in 2012.

PACE Evaluation. As part of the suspension of the PACE program under 2011 Act 32, DATCP was required to conduct an evaluation of the PACE program, including the following aspects: (a) the administration of the program; (b) the source of funding for the program; (c) state financial participation; and (d) the amount of local matching funds required. Further, the act specified DATCP was to include options for a program that would be less costly and more efficient in preserving farmland. DATCP presented the evaluation to the Board of Agriculture, Trade and Consumer Protection in June, 2012.

DATCP identified several changes to the PACE program that would be intended to preserve farmland more efficiently and with lower costs. One suggested change would be to give greater priority to proposals that have been selected through a local process of identifying strategic areas most suitable for a perpetual easement. This change is intended to have easements that, in addition to aligning with farmland preservation plans, would also have greater county or town consensus on lands most strongly supported for perpetual agricultural conservation.

Second, the report discussed the option of giving greater preference to proposals using either a state share of less than the 50% maximum, other non-state sources of funding, or both. Third, the Department recommended eliminating reimbursements to cooperating entities for transaction costs. Both of these changes would be intended to lower state expenditures associated with easement purchases.

Fourth, DATCP noted the suggestion that PACE could be administered as a grant program to leverage other funds, as opposed to a program under which DATCP both provides funds and acts as an easement holder. This would require changes to the program's statutory authorization, but could reduce future DATCP liabilities for administering and enforcing easements. Instead, local governments or nonprofit conservation organizations would be the easement holders responsible for enforcing easement terms.

The report also discussed the options of: (a) allowing for additional local funding of PACE programs, such as through dedicated tax collections or other revenues; (b) ending one-time, lump-sum payments for easements in favor of annuities or installments over 20- to 30-year terms; and (c) adopting certain provisions of the former FRPP, such as requiring a minimum 25% contribution to the purchase price by a cooperating entity and limiting DATCP's 50% share to the final purchase price instead of fair market value. The FRPP provisions, if adopted in combination, would allow DATCP to pay less than 50% of the final purchase price if the landowner donated more than one-third of the easement value. The report also noted the option of abolishing perpetual easements in favor of finite terms, although DATCP noted such a change could make PACE substantially overlap with farmland preservation agreements.

DATCP also proposed several administrative changes to improve program efficiency. These related to the application process and site documenting, including appraisals and inspections.

*FARMLAND PRESERVATION TAX CREDITS***Introduction**

Beginning with tax year 2010, 2009 Act 28 essentially ended both the farmland preservation tax credit, except for those claimants under an existing farmland preservation agreement, and the farmland tax relief credit. Under Act 28, these two credits were essentially replaced with the new, per-acre farmland preservation credit. Unlike the previous two credits, under which the amount of property taxes paid by the claimant was a factor in determining the size of that claimant's tax credits, the new, per-acre credit does not have a property tax component. The credit is simply based upon the amount of qualifying acres of a claimant. Individuals filing a fraudulent credit claim are prohibited from filing a claim for a credit for 10 successive tax years and individuals filing a reckless credit claim are prohibited from filing a credit claim for two consecutive tax years.

Pre-2010 Farmland Preservation Tax Credit

The original farmland preservation program, which continues to exist beyond tax year 2010 for some farmland preservation agreement holders, provides property tax relief to farmland owners and, similar to the new credit, encouraged local governments to develop farmland preservation policies. The property tax relief is provided as a credit reducing income tax liability or as a cash refund if the credit exceeds income tax due. The credit formula is based on household income, the amount of property tax, and the type of land use provisions protecting the farmland. Re-

maintaining farmland preservation agreement holder credits are paid from a GPR, sum-sufficient appropriation.

The pre-2010 farmland preservation program continues to exist for farmland preservation agreement holders who: (a) signed an agreement prior to July 1, 2009; or (b) per 2009 Act 374, submitted an agreement application to the county clerk no earlier than January 1, 2008, and no later than June 30, 2009, but the application was not processed prior to July 1, 2009. Those who claimed the pre-2010 credit under the exclusive agricultural zoning provisions of the program are no longer eligible to receive the credit. The size of this credit depends on the interaction of household income and allowable property taxes and on the contract, zoning, or planning provisions covering the land.

Household Income. Household income includes all income of the claimant and spouse and, for minor dependents, any income they earn on the claimant's farm. Income is broadly defined to include net farm income; nonfarm wages of the claimant and spouse; tips and salaries; dividends; interest; pensions; public assistance; all nonfarm depreciation expenses and farm depreciation expenses over \$25,000; certain tax preference items, such as excluded capital gains; and non-farm business losses.

Property Taxes. Eligible property taxes include up to \$6,000 of property taxes levied on the farmland and improvements, exclusive of special assessments, delinquent interest, and charges for service. A claimant must certify that all taxes owed on this property in the previous year have been paid. This requirement may not apply to

claimants who choose to compute their credit using the law as it existed when they first signed a preservation agreement.

If any person in a household has claimed or will claim a homestead tax credit or a veterans or surviving spouses property tax credit, all persons from that household are ineligible to claim a pre-2010 farmland preservation credit for the year to which the homestead or veterans or surviving spouses credit pertains.

Formula. Although the tax credit formula is complex, the claimant refers to a table in order to determine the credit amount.

Step one of the formula determines the income factor, which can be interpreted as the amount of income that a household can afford to contribute to the payment of property taxes. By including higher percentages of income as income rises, an element of progressivity is introduced. In step two, the deduction of the income factor from eligible property taxes serves to determine what portion of the taxes are "excessive" for a claimant with a particular income level. Step three prorates the "excessive" property tax to determine the potential credit, which guarantees that claimants of all income levels continue to pay part of their property tax, with larger farms paying a higher percentage. Finally, step four adjusts the potential credit depending on the degree of land use restriction, with larger credits given for more restrictive conditions.

The degree of land use restriction and the associated percentage of the potential credit received by claimants vary by municipality. Appendix VIII to this paper shows the calculation of a pre-2010 farmland preservation tax credit for a hypothetical agreement holder.

Land Use Provisions

Land use provisions are required to ensure that tax credits are paid only for farmland that

local governments believe is important to preserve for agricultural use. They also ensure a long-term commitment to preserving individual parcels for agricultural use. The three land use provisions under the pre-2010 farmland preservation program were: (a) county farmland preservation plans; (b) individual preservation agreements; and (c) exclusive agricultural zoning. (These instruments as administered under current law are described in Chapter 1.) The level of tax credit varied depending on the land use policy in effect. Pre-2010 tax credits can continue to be claimed only under an eligible farmland preservation agreement. In addition, all participants must comply with certain soil and water conservation standards.

Preservation Agreements. A preservation agreement is a contract between a farmland owner and DATCP under which the owner agrees to maintain farmland in agricultural use. For agreements begun prior to 2009 Act 28, the farmland generally was to be in a farmland preservation area under a county preservation plan or under exclusive agricultural zoning before the owner could sign a contract.

Generally, preservation agreements signed prior to July 1, 2009, and those created under 2009 Act 374 may claim the pre-2010 farmland preservation credit. Persons with an existing farmland preservation agreement also can modify their agreements with DATCP to be eligible for the per-acre credit; however, no agreement holder may claim both the pre-2010 farmland preservation credit and the new, per-acre credit. As of July, 2014, there were 1,789 farmers under farmland preservation agreements covering 314,700 acres. DATCP reports 1,391 agreements covering approximately 227,100 acres were created under provisions in place prior to 2009 Act 28.

Program Participation and Expenditures

The pre-2010 farmland preservation tax credit is funded through a sum-sufficient appropriation

from the state's general fund. Sum-sufficient appropriations allow for the payment of all amounts necessary to accomplish the purposes for which the appropriation was created. The amount expended for credit payments for each fiscal year since 2004-05 is listed in Table 10. The sharp decline in pre-2010 credits since 2009-10 reflects the creation of the new, per-acre credit, the eligibility of claimants for that program, and limiting new claims for the pre-2010 credit to those with an existing farmland preservation agreement.

Table 10: Farmland Preservation Tax Credits

Fiscal Year	Pre-2010 Credits	2010 and Beyond	Total Credits
2004-05	\$13,460,000	N/A	\$13,460,000
2005-06	12,522,000	N/A	12,522,000
2006-07	12,555,800	N/A	12,555,800
2007-08	11,984,100	N/A	11,984,100
2008-09	12,173,000	N/A	12,173,000
2009-10	14,568,500	N/A	14,568,500
2010-11	6,126,000	\$12,432,200	18,558,200
2011-12	3,518,000	16,074,500	19,592,500
2012-13	2,060,000	17,144,800	19,204,800
2013-14	1,669,400	17,610,900	19,280,300

Source: Wisconsin Annual Fiscal Report

DATCP has reported a number of filers beginning with the 2010 tax year, the first under the per-acre credit, likely have filed the incorrect claim form with DOR. For the 2010 tax year, DATCP estimated claims covering perhaps 500,000 acres under farmland preservation zoning filed for the pre-2010 credit, which should have only been claimed by persons holding agreements created under the 2007 statutes. DATCP estimated about \$1.5 million additional farmland preservation tax credits could have been claimed in 2011, but DATCP reports incorrect filing has decreased each year since. Filers have four years following the initial claim to submit amended income tax returns.

For the 2013 tax year primarily paid in state fiscal year 2013-14, DOR data show approxi-

mately 2,400 individual claimants under the pre-2010 credit, with approximately 416,200 acres subject to claims and credits averaging \$3.86 per acre.

Per-Acre Farmland Preservation Tax Credit

Beginning in tax year 2010, Act 28 created a new, per-acre farmland preservation credit, under which a claimant may claim as a credit against income taxes an amount calculated by multiplying the claimant's qualifying acres by one of the following amounts:

- a. \$10, if the qualifying acres are located in a farmland preservation zoning district and are also subject to a farmland preservation agreement entered into after July 1, 2009;
- b. \$7.50, if the qualifying acres are located in a farmland preservation zoning district but are not subject to a farmland preservation agreement entered into after July 1, 2009; or
- c. \$5, if the qualifying acres are subject to a farmland preservation agreement entered into after July 1, 2009, but are not located in a farmland preservation zoning district.

Table 10 shows annual credit amounts under the per-acre credit beginning with the 2010 tax year, which would have been claimed beginning in the 2010-11 fiscal year. For the 2013 tax year, DOR data report 11,700 individual claimants under the per-acre credit. (This excludes corporate and trust claimants.) Total acreage reported by claimants was approximately 2.2 million acres with credits averaging approximately \$7.60 per acre.

2013 Act 20 changed the appropriation funding the per-acre credit from a sum-certain, annual appropriation to a sum-sufficient appropriation beginning in 2013-14. Also, 2013 Act 352 in-

creased the total acreage cap for agricultural enterprise areas (AEAs) from one million acres to two million acres. As a prerequisite of entering a farmland preservation agreement is having the covered land located in an AEA, Act 352 is expected to increase the number of farms entering agreements in future years. This would be expected to increase the number of claimants for the per-acre credit, and it is further expected the full fiscal effect of the act would be phased in as DATCP designates additional AEAs annually. DOR and DATCP estimates indicate the full annual fiscal effect of Act 352 may be \$500,000 to \$1.5 million annually once the higher AEA acreage cap is reached.

As shown in Appendix IV, DATCP reports approximately 400 new farmland preservation agreements covering approximately 88,000 acres have been created in AEAs since 2009 Act 28. These acres generally would be eligible for a minimum credit of \$5 per acre. Although persons holding a farmland preservation agreement in effect prior to 2009 Act 28 may claim the pre-2010 credit, such claimants are allowed to modify their existing farmland preservation agreements to be eligible for the per-acre credit. However, no agreement holder who files a claim in a tax year for the pre-2010 farmland preservation credit may file a claim for the per-acre farmland preservation credit. As of July, 2014, DATCP reports 69 farmland preservation agreements had been modified so as to claim the new, per-acre credit. These agreements cover approximately 17,400 farmland acres.

The per-acre credit may be claimed against state income taxes required of persons filing as individuals and fiduciaries, corporations, or insurance companies. If the allowable amount of the credit claim exceeds the income taxes otherwise due on the claimant's income, if any, DOR must certify the amount not used to offset income taxes to the Department of Administration (DOA) for payment to the claimant (the credit is "refundable").

The only property tax requirement for the per-acre credit is that a claimant must be responsible for paying the property taxes on the qualifying acres. Other than to determine whether a claimant has enough farm income to be eligible for a credit, there are no other income requirements that reduce or limit the amount of the new credit.

If a payment to which an eligible claimant is entitled is delayed because the claim was an excess claim, the claimant is not entitled to any interest payment, with regard to: (a) the delayed claim; or (b) any other refund to which the claimant is entitled if that other refund is claimed on the same income tax return as the per-acre farmland preservation credit.

Credit Requirements

"Qualifying acres" is defined as the number of acres of a farm that correlate to a claimant's percentage of ownership interest in a farm to which one of the following applies:

- a. the farm is wholly or partially covered by a farmland preservation agreement, except that if the farm is only partially covered, the qualifying acres calculation includes only those acres that are covered by the agreement;
- b. the farm is located in a farmland preservation zoning district at the end of the taxable year to which the claim relates; or
- c. if the claimant transferred the claimant's ownership interest in the farm during the taxable year to which the claim relates, the farm was wholly or partially covered by a farmland preservation agreement, or the farm was located in a farmland preservation zoning district, on the date on which the claimant transferred the ownership interest. A land contract is considered a transfer of ownership interest for this purpose.

For purposes of the per-acre credit, a "farm" is defined as all the land under common ownership that is primarily devoted to agricultural use and

that has produced at least \$6,000 in gross farm revenues during the taxable year to which the claim relates or, in that taxable year and the two immediately preceding taxable years, at least \$18,000 in gross farm revenues. "Gross farm revenues" means gross receipts from agricultural use of a farm, excluding rent receipts, less the cost or other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. "Agriculture" is defined as any of the uses identified as agricultural in Table 4 of Chapter 1.

A "claimant" is an owner of farmland, domiciled in this state during the entire taxable year to which the claim relates, who files a claim for a credit. For the per-acre credit, this definition applies except as follows:

a. When two or more individuals of a household (defined as an individual and his or her spouse and all minor dependents) are able to qualify individually as claimants, they are allowed to determine between them who the claimant will be. If they are unable to agree, the matter is to be referred to the DOR Secretary, whose decision is final;

b. If any person in a household has claimed or will claim a homestead tax credit or a veterans or surviving spouses property tax credit, all persons from that household are ineligible to claim a per-acre farmland preservation credit for the year to which the homestead or veterans or surviving spouses credit pertains;

c. For partnerships and limited liability companies, except those treated as corporations under state corporate tax law, a "claimant" means each individual partner or member;

d. For purposes of filing a credit claim, the personal representative of an estate and the trustee of a trust are considered the owner of farmland. However, a claimant does not include the estate of a person who is a nonresident of this

state on the person's date of death, a trust created by a nonresident person, a trust which receives Wisconsin real property from a nonresident person, or a trust in which a nonresident settlor retains a beneficial interest;

e. When land is subject to a land contract, the claimant is the vendee under the contract;

f. When a guardian has been appointed for a ward who owns the farmland, the claimant is the guardian on behalf of the ward; and

g. For a tax-option corporation, a "claimant" is each individual shareholder.

If a farm is jointly owned by two or more persons who file separate income or franchise tax returns, each person may claim a credit based on their ownership interest in the farm. Also, if a person acquires or transfers ownership of a farm during a taxable year, the person may file a claim based on their liability for the property taxes levied on their qualifying acres for that taxable year. No credit may be claimed with respect to income or franchise taxes unless the claim is made within four years of the unextended due date for those taxes.

Claim Requirements

No per-acre farmland preservation tax credit is allowed unless all of the following apply:

a. the claimant certifies to DOR that the claimant has paid, or is legally responsible for paying, the property taxes levied against the claim's qualifying acres;

b. the claimant certifies to DOR that, at the end of the taxable year to which the claim relates or on the date on which the person transferred the person's ownership interest in the farm if the transfer occurs during that taxable year, there was no outstanding notice of noncompliance issued against the farm under the state soil and water

conservation standards; and

c. the claimant submits to DOR a certification of compliance with the soil and water conservation standards issued by the county land conservation committee unless, in the last preceding year, the claimant received a tax credit for the same farm under either the pre-2010 farmland preservation tax credit program or the per-acre credit program.

A claimant must claim the per-acre credit on a form prepared by DOR and submit any documentation required by the Department. In addition, a claimant must certify all of the following on the form: (a) the number of qualifying acres for which the credit is claimed; (b) the location and tax parcel number for each parcel on which the qualifying acres are located; (c) that the qualifying acres are covered by a farmland preservation agreement or located in a farmland preservation zoning district, or both; and (d) that the qualifying acres are part of a farm that complies with applicable state soil and water conservation standards.

DOR has the authority to enforce the per-acre farmland preservation credit and to take any action, conduct any proceeding, and proceed as it is authorized with respect to income and franchise

taxes. Also, the income and franchise tax provisions relating to assessments, refunds, appeals, collection, interest, and penalties allowed under the pre-2010 farmland preservation credit also apply to the per-acre farmland preservation credit.

2009 Act 28 deleted the requirement for existing credit claimants that a lien must be placed on any land: (a) rezoned out of a farmland preservation zoning district; (b) under a farmland preservation agreement that is relinquished prior to its specified expiration date; or (c) granted a conditional use permit for a land use that is not an agricultural use. Under the pre-2010 credit, the lien remained in place until the owner of the land makes a payment to the state that is equal to the farmland preservation tax credits received by the owner of the land during the preceding 10 years plus interest. Under the per-acre credit, the use of liens was replaced under Act 28 with conversion fees, as described in Chapter 1. However, conversion fees as applied to farmland preservation zoning were repealed under 2011 Act 32. Conversion fees remain in effect for farmland preservation agreements entered into after July 1, 2009, and that are terminated prior to their specified expiration date.

APPENDIX I

County Population Figures and Farmland Preservation Plan Status

County	Plan Certified/ Recertified	Land Area (sq. miles)	Population Census 2000	Population Estimate 1/1/2007	Density Change 2000-2007	Plan Expiration	Planning Grants Awarded
Adams	2004	647.74	19,920	21,645	2.66	2016*++	\$20,000
Ashland	1982	1,043.82	16,866	16,879	0.01	2015	0
Barron	1979	862.84	44,963	47,551	3.00	2015++	29,000
Bayfield	1982	1,476.25	15,013	15,990	0.66	2015	0
Brown	2012	528.68	226,658	244,764	34.25	2017	30,000
Buffalo	1980	684.47	13,804	14,183	0.55	2015	0
Burnett	1982	821.52	15,674	16,749	1.31	2015+	18,655
Calumet	2010/2011	319.84	40,631	46,031	16.88	2019	0
Chippewa	1984	1,010.43	55,195	61,604	6.34	2014++	30,000
Clark	1986	1,215.64	33,557	34,479	0.76	2015	0
Columbia	2013	773.79	52,468	55,636	4.09	2023	30,000
Crawford	1981	572.69	17,243	17,553	0.54	2017++	30,000
Dane	2012	1,201.89	426,526	468,514	34.93	2022	30,000
Dodge	2011	882.28	85,897	89,225	3.77	2021	17,000
Door	2014	482.72	27,961	30,043	4.31	2024	10,100
Douglas	1982	1,309.13	43,287	44,096	0.62	2016+	22,560
Dunn	1981	852.03	39,858	43,118	3.83	2014++	30,000
Eau Claire	1983	637.64	93,142	98,000	7.62	2014++	30,000
Florence	1983	488.03	5,088	5,295	0.42	2015	23,013
Fond du Lac	2012	722.91	97,296	101,174	5.36	2022	30,000
Forest	1983	1,014.05	10,024	10,329	0.30	2015	0
Grant	2011	1,147.85	49,597	51,037	1.25	2021	0
Green	2012	583.99	33,647	36,262	4.48	2022	30,000
Green Lake	1983	354.28	19,105	19,446	0.96	2015+	30,000
Iowa	1980	762.67	22,780	24,130	1.77	2015++	30,000
Iron	1983	757.23	6,861	7,002	0.19	2015	0
Jackson	1986	987.32	19,100	20,080	0.99	2016++	9,503
Jefferson	2011	557.01	75,767	80,411	8.34	2021	30,000
Juneau	2013	767.61	24,316	27,177	3.73	2023	16,184
Kenosha	2013	272.83	149,577	161,370	43.23	2023	30,000
Kewaunee	2007	342.64	20,187	21,198	2.95	2017*	0
La Crosse	2012	452.74	107,120	111,791	10.32	2022	30,000
Lafayette	1980	633.57	16,137	16,317	0.28	2015	22,500
Langlade	1982	872.67	20,740	21,517	0.89	2014	20,833
Lincoln	1983	883.30	29,641	30,562	1.04	2016++	30,000
Manitowoc	2005	591.53	82,893	84,603	2.89	2015*	30,000
Marathon	2013	1,544.96	125,834	134,028	5.30	2023	30,000
Marinette	1981	1,401.76	43,384	44,646	0.90	2014	0
Marquette	1982	455.49	14,555	15,319	1.68	2015+	30,000
Menominee	---	357.96	4,562	4,606	0.12	2015	0

County	Plan Certified/ Recertified	Land Area (sq. miles)	Population Census 2000	Population Estimate 1/1/2007	Density Change 2000-2007	Plan Expiration	Planning Grants Awarded
Milwaukee	---	241.56	940,164	937,324	-11.76	2015	\$0
Monroe	2014	900.77	40,896	43,838	3.27	2024	6,494
Oconto	1985	997.97	35,652	38,958	3.31	2014+	30,000
Oneida	1983	1,124.50	36,776	38,600	1.62	2015+	8,974
Outagamie	2012	640.34	161,091	173,773	19.81	2022	30,000
Ozaukee	2013	231.95	82,317	86,697	18.88	2023	30,000
Pepin	1979	232.28	7,213	7,714	2.16	2015++	17,000
Pierce	2013	576.49	36,804	40,235	5.95	2023	30,000
Polk	2014	917.27	41,319	45,611	4.68	2024	30,000
Portage	1985	806.31	67,182	69,959	3.44	2015++	30,000
Price	1983	1,252.56	15,822	16,069	0.20	2015	0
Racine	2013	333.10	188,831	195,113	18.86	2023	30,000
Richland	1981	586.20	17,924	18,208	0.48	2017++	30,000
Rock	2014	720.47	152,307	159,530	10.03	2024	30,000
Rusk	1983	913.13	15,347	15,627	0.31	2015	0
St. Croix	2012	721.82	63,155	79,020	21.98	2022	30,000
Sauk	2013	837.63	55,225	60,673	6.50	2023	30,000
Sawyer	1982	1,256.42	16,196	17,542	1.07	2015+	12,553
Shawano	2013	892.51	40,664	42,413	1.96	2023	30,000
Sheboygan	2013	513.63	112,656	117,045	8.55	2023	30,000
Taylor	1981	974.86	19,680	20,049	0.38	2016+	0
Trempealeau	1980	734.08	27,010	28,119	1.51	2016++	30,000
Vernon	1981	794.87	28,056	29,530	1.85	2015++	30,000
Vilas	1984	873.72	21,033	22,545	1.73	2014	19,000
Walworth	2012	555.31	92,013	100,672	15.59	2022	30,000
Washburn	1982	809.68	16,036	17,403	1.69	2016++	15,500
Washington	2013	430.82	117,496	129,316	27.44	2023	30,000
Waukesha	2011	555.58	360,767	381,651	37.59	2021	0
Waupaca	2014	751.09	51,825	53,773	2.59	2024	30,000
Waushara	1981	626.03	23,066	25,215	3.43	2014+	10,500
Winnebago	2012	438.58	156,763	164,703	18.10	2017	30,000
Wood	1984	792.78	75,555	76,839	1.62	2014	26,125

* County plan has a specified expiration date. It is not affected by the population density-based expiration dates.

+ County has received an extension of one year (+) or two years (++), as of November 1, 2014. Date shown includes the number of years by which the plan has been extended.

APPENDIX II

County Population Figures and Farmland Preservation Plan Status (by Plan Certification Expiration Date)

County	Plan Certified/ Recertified	Land Area (sq. miles)	Population Census 2000	Population Estimate 1/1/2007	Density Change 2000-2007	Plan Expiration	Planning Grants Awarded
Chippewa	1984	1,010.43	55,195	61,604	6.34	2014++	\$30,000
Dunn	1981	852.03	39,858	43,118	3.83	2014++	30,000
Eau Claire	1983	637.64	93,142	98,000	7.62	2014++	30,000
Langlade	1982	872.67	20,740	21,517	0.89	2014	20,833
Marinette	1981	1,401.76	43,384	44,646	0.90	2014	0
Oconto	1985	997.97	35,652	38,958	3.31	2014+	30,000
Vilas	1984	873.72	21,033	22,545	1.73	2014	19,000
Waushara	1981	626.03	23,066	25,215	3.43	2014+	10,500
Wood	1984	792.78	75,555	76,839	1.62	2014	26,125
Ashland	1982	1,043.82	16,866	16,879	0.01	2015	0
Barron	1979	862.84	44,963	47,551	3.00	2015++	29,000
Bayfield	1982	1,476.25	15,013	15,990	0.66	2015	0
Buffalo	1980	684.47	13,804	14,183	0.55	2015	0
Burnett	1982	821.52	15,674	16,749	1.31	2015+	18,655
Clark	1986	1,215.64	33,557	34,479	0.76	2015	0
Florence	1983	488.03	5,088	5,295	0.42	2015	23,013
Forest	1983	1,014.05	10,024	10,329	0.30	2015	0
Green Lake	1983	354.28	19,105	19,446	0.96	2015+	30,000
Iowa	1980	762.67	22,780	24,130	1.77	2015++	30,000
Iron	1983	757.23	6,861	7,002	0.19	2015	0
Lafayette	1980	633.57	16,137	16,317	0.28	2015	22,500
Manitowoc	2005	591.53	82,893	84,603	2.89	2015*	30,000
Marquette	1982	455.49	14,555	15,319	1.68	2015+	30,000
Menominee	---	357.96	4,562	4,606	0.12	2015	0
Milwaukee	---	241.56	940,164	937,324	-11.76	2015	0
Oneida	1983	1,124.50	36,776	38,600	1.62	2015+	8,974
Pepin	1979	232.28	7,213	7,714	2.16	2015++	17,000
Portage	1985	806.31	67,182	69,959	3.44	2015++	30,000
Price	1983	1,252.56	15,822	16,069	0.20	2015	0
Rusk	1983	913.13	15,347	15,627	0.31	2015	0
Sawyer	1982	1,256.42	16,196	17,542	1.07	2015+	12,553
Vernon	1981	794.87	28,056	29,530	1.85	2015++	30,000
Adams	2004	647.74	19,920	21,645	2.66	2016*++	20,000
Douglas	1982	1,309.13	43,287	44,096	0.62	2016+	22,560
Jackson	1986	987.32	19,100	20,080	0.99	2016++	9,503

County	Plan Certified/ Recertified	Land Area (sq. miles)	Population Census 2000	Population Estimate 1/1/2007	Density Change 2000-2007	Plan Expiration	Planning Grants Awarded
Lincoln	1983	883.30	29,641	30,562	1.04	2016++	\$30,000
Taylor	1981	974.86	19,680	20,049	0.38	2016+	0
Trempealeau	1980	734.08	27,010	28,119	1.51	2016++	30,000
Washburn	1982	809.68	16,036	17,403	1.69	2016++	15,500
Brown	2012	528.68	226,658	244,764	34.25	2017	30,000
Crawford	1981	572.69	17,243	17,553	0.54	2017++	30,000
Kewaunee	2007	342.64	20,187	21,198	2.95	2017*	0
Richland	1981	586.20	17,924	18,208	0.48	2017++	30,000
Winnebago	2012	438.58	156,763	164,703	18.10	2017	30,000
Calumet	2010/2011	319.84	40,631	46,031	16.88	2019	0
Dodge	2011	882.28	85,897	89,225	3.77	2021	17,000
Grant	2011	1,147.85	49,597	51,037	1.25	2021	0
Jefferson	2011	557.01	75,767	80,411	8.34	2021	30,000
Waukesha	2011	555.58	360,767	381,651	37.59	2021	0
Dane	2012	1,201.89	426,526	468,514	34.93	2022	30,000
Fond du Lac	2012	722.91	97,296	101,174	5.36	2022	30,000
Green	2012	583.99	33,647	36,262	4.48	2022	30,000
La Crosse	2012	452.74	107,120	111,791	10.32	2022	30,000
Outagamie	2012	640.34	161,091	173,773	19.81	2022	30,000
St. Croix	2012	721.82	63,155	79,020	21.98	2022	30,000
Walworth	2012	555.31	92,013	100,672	15.59	2022	30,000
Columbia	2013	773.79	52,468	55,636	4.09	2023	30,000
Juneau	2013	767.61	24,316	27,177	3.73	2023	16,184
Kenosha	2013	272.83	149,577	161,370	43.23	2023	30,000
Ozaukee	2013	231.95	82,317	86,697	18.88	2023	30,000
Pierce	2013	576.49	36,804	40,235	5.95	2023	30,000
Racine	2013	333.10	188,831	195,113	18.86	2023	30,000
Sauk	2013	837.63	55,225	60,673	6.50	2023	30,000
Shawano	2013	892.51	40,664	42,413	1.96	2023	30,000
Sheboygan	2013	513.63	112,656	117,045	8.55	2023	30,000
Washington	2013	430.82	117,496	129,316	27.44	2023	30,000
Marathon	2013	1,544.96	125,834	134,028	5.30	2023	30,000
Door	2014	482.72	27,961	30,043	4.31	2024	10,100
Monroe	2014	900.77	40,896	43,838	3.27	2024	6,494
Polk	2014	917.27	41,319	45,611	4.68	2024	30,000
Rock	2014	720.47	152,307	159,530	10.03	2024	30,000
Waupaca	2014	751.09	51,825	53,773	2.59	2024	30,000

* County plan has a specified expiration date. It is not affected by the population density-based expiration dates specified in Act 28.

+ County has received an extension of one year (+) or two years (++), as of November 1, 2014. Date shown includes the number of years by which the plan has been extended.

APPENDIX III

Farmland Preservation Zoning Ordinances and Expiration Dates by County and Municipality

ADAMS (2014)

Town of Lincoln.

BARRON (2014)

Cities of Barron and Rice Lake. (Extraterritorial)
Towns of Almena, Barron, Crystal Lake, Cumberland, Dallas, Maple Grove, Maple Plain, Oak Grove, Prairie Lake, Rice Lake, Stanford, Stanley, Sumner, and Turtle Lake.

BROWN (2012)

Villages of Bellevue (2014++), Hobart (2014++), Howard (2014++) and Suamico (2014++).

Towns of Eaton (2018), Glenmore (2014++), Green Bay (2014++), Holland (2018), Humboldt (2014++), Lawrence (2014++), Ledgeview (2014++), Morrison (2014++), New Denmark (2014++), Pittsfield (2014++), Rockland (2018), Scott (2014++), and Wrightstown (2014++).

BURNETT (2015)

Towns of Anderson, Dewey, Rusk, Swiss, and Trade Lake.

CALUMET (2019)

Towns of Brillion, Charlestown, Chilton (2020), Rantoul and Woodville.

CLARK (2016)

Town of Colby.

COLUMBIA (2024)

Towns of Arlington, Caledonia, Columbus, Courtland (2023), Dekorra, Fort Winnebago, Fountain Prairie, Hampden, Leeds, Lewiston, Lodi, Lowville, Marcellon, Newport, Otsego, Springvale, West Point and Wyocena.

CRAWFORD (2016)

Village of Soldiers Grove.

Towns of Haney and Utica.

DANE (2014++)

City of Fitchburg (2014+).

Village of Dane (2013).

Towns of Albion, Berry, Black Earth, Blooming Grove, Blue Mounds, Christiana, Cottage Grove, Cross Plains, Dane, Deerfield, Dunkirk, Dunn, Madison, Mazomanie, Medina, Montrose, Oregon, Perry, Pleasant Springs, Primrose, Roxbury, Rutland, Springfield, Sun Prairie, Vermont, Verona, Vienna, Westport, Windsor and York.

DODGE (2022)

Towns of Burnett (2021), Calamus, Elba (2024), Herman (2022), Lebanon, LeRoy, Lomira, Oak Grove, Portland (2021), Shields, Theresa (2022), Trenton and Williamstown (2024).

DOOR (2015++)

Town of Clay Banks.

DUNN (2015++)

Towns of Grant, Lucas and Wilson.

EAU CLAIRE (2014+)

Village of Fall Creek (2013).

Towns of Brunswick, Clear Creek, Drammen, Lincoln, Otter Creek, Pleasant Valley, Seymour and Washington.

FOND DU LAC (2013)

Towns of Alto (2023), Ashford (2014+), Auburn (2023), Byron (2023), Calumet (2023), Eden (2024), Eldorado (2023), Empire (2023), Fond Du Lac (2024), Forest (2014+), Friendship (2024), Lamartine (2023), Marshfield (2024), Metomen (2024), Oakfield (2023), Osceola (2024), Ripon (2024), Rosendale (2024), Springvale (2014+), Taycheedah (2023) and Waupun (2014+).

GRANT (2021)

Towns of Clifton, Ellenboro, Fennimore, Harrison, Hickory Grove, Jamestown, Liberty, Lima, Millville, Mount Hope, Mount Ida,

Paris, Platteville, Potosi, South Lancaster, Watterstown and Wingville.

GREEN LAKE (2015)

City of Berlin (2016). (Extraterritorial)

Towns of Berlin, Brooklyn, Green Lake, Mackford, Manchester and Marquette.

IOWA (2016++)

City of Mineral Point (2014). (Extraterritorial)

Village of Highland (2014).

Towns of Arena, Brigham, Clyde, Dodgeville, Eden, Highland, Linden, Mifflin, Mineral Point, Moscow, Pulaski, Ridgeway, Waldwick and Wyoming.

JEFFERSON (2022)

Towns of Aztalan, Cold Spring, Concord, Farmington, Hebron, Ixonia, Jefferson, Koshkonong, Lake Mills, Milford, Oakland, Palmyra, Sullivan, Sumner, Waterloo and Watertown.

KENOSHA (2014++)

Village of Bristol (2014++).

Towns of Brighton, Paris, Salem, Somers and Wheatland.

KEWAUNEE (2014)

Village of Luxemburg.

Towns of Ahnapee (2016++), Carlton (2018), Casco (2016++), Franklin (2017), Lincoln (2018), Luxemburg (2016++), Montpelier, Pierce (2019), Red River (2016++) and West Kewaunee (2016++).

LA CROSSE (2014++)

Towns of Bangor, Barre, Burns (2023), Farmington, Greenfield, Hamilton, Holland, Onalaska, Shelby and Washington.

LAFAYETTE (2016)

Towns of Argyle, Belmont, Elk Grove, Fayette, Gratiot, Kendall, Lamont, Monticello, Shullsburg, Wayne and Wiota.

LANGLADE (2015)

Towns of Ackley, Antigo, Elcho, Neva, Norwood, Parrish, Peck, Polar, Rolling, Vilas and Wolf River.

MANITOWOC (2014)

Towns of Cato, Centerville, Cooperstown, Eaton, Franklin (2016), Gibson, Liberty, Manitowoc, Manitowoc Rapids, Maple Grove, Meeme, Mishicot, Newton, Rockland, Two Creeks and Two Rivers.

MARATHON (2014+)

Towns of Brighton, Day, Eau Pleine, Hull, Marathon and McMillan, Mosinee (2014+) and Stettin (2013).

MARQUETTE (2015)

Towns of Moundville, Neshkoro, Newton, Packwaukee and Westfield.

MILWAUKEE (2016)

City of Franklin.

OUTAGAMIE (2023)

Towns of Black Creek (2024), Cicero, Deer Creek, Hortonia (2013++++), Kaukauna (2023), Maple Creek, and Seymour.

OZAUKEE (2012)

Towns of Belgium (2014++) and Fredonia (2014++).

PIERCE (2013)

Town of River Falls (2015++).

POLK (2015++)

Town of McKinley.

PORTAGE (2016++)

Towns of Almond, Buena Vista, Carson, Eau Pleine, New Hope, Plover and Sharon.

RACINE (2014++)

Towns of Burlington and Waterford.

RICHLAND (2016)

City of Richland Center. (Extraterritorial)
 Towns of Akan, Buena Vista, Dayton, Eagle, Forest, Henrietta, **Ithaca**, Marshall, Orion, Richland, Rockbridge (2018), Westford, and Willow.

ROCK (2012)

Towns of **Avon (2014++)**, **Beloit (2014++)**, **Bradford (2014++)**, **Center (2014++)**, **Clinton (2017)**, **Fulton (2014++)**, **Harmony (2017)**, **Janesville (2024)**, **Johnstown (2014++)**, **La Prairie (2018)**, **Lima (2014++)**, **Magnolia (2018)**, **Milton (2014++)**, **Newark (2014++)**, **Plymouth (2024)**, **Porter (2014++)**, **Rock (2024)**, **Spring Valley (2014++)**, **Turtle (2014++)** and **Union (2024)**.

ST. CROIX (2014++)

Towns of Baldwin, Cylon, Erin Prairie, Pleasant Valley, Rush River, St. Joseph, Somerset, Stanton, Star Prairie and Troy.

SAUK (2024)

Villages of Prairie du Sac (2015+), Sauk City (2015+) and Spring Green (2015+). (Extraterritorial)
 Towns of Excelsior, Franklin, Honey Creek, Ironton, Prairie Du Sac, Reedsburg, Sumpter, Troy and Westfield.

SHAWANO (2014)

Towns of Aniwa, Fairbanks, Grant, **Hartland**, Maple Grove, Navarino and Washington.

SHEBOYGAN (2013)

Towns of **Greenbush (2018)**, **Herman (2015++)**, **Holland (2015++)**, **Lima (2015++)**, **Lyndon (2017)**, **Mosel (2015++)**, **Plymouth, Rhine (2014+)**, **Russell (2017)**, **Scott (2014+)**, **Sheboygan Falls (2018)**, and **Sherman (2014+)**.

VERNON (2014)

Towns of Christiana (2016++), Coon and Harmony.

WALWORTH (2014++)

Towns of Darien, Delavan, East Troy, Geneva, Lafayette, La Grange, Linn, Lyons, Richmond, Sharon, Spring Prairie, Sugar Creek, Troy, Walworth and Whitewater.

WASHINGTON (2012)

Town of Hartford (2014++++).

WAUKESHA (2014++)

Towns of **Eagle (2014++)**, Oconomowoc and Ottawa.

WINNEBAGO (2014++)

Towns of **Clayton (2018)**, Neenah, Nekimi, **Nepeuskun (2018)**, **Utica (2014++)**, **Vinland (2014++)**, **Winchester (2018)** and **Wolf River (2014++)**.

Total Agricultural Zoning Occurrences

Towns, County Zoning	271
Towns, Self-Administered Zoning	115
Village-Administered Zoning	13
City-Administered Zoning	<u>7</u>
Total	406

Notes: Expiration dates for each municipality are those listed for the county, unless otherwise noted.

Bold type indicates town-administered zoning. These are areas in which: (a) counties have not created farmland preservation zoning ordinances; or (b) towns have rejected county farmland preservation zoning ordinances in favor of their own zoning. Normal type indicates county-administered zoning. A county, town, village, or city not listed has not adopted a farmland preservation zoning ordinance.

Underlined municipalities indicate towns added since 2009 Act 28.

+ Date shown reflects expiration as extended, following DATCP approval, with the length of the extension noted by the number of signs shown.

APPENDIX IV

Farmland Preservation Agreements

Total Agreements - July, 2014

County	Agreements	Total Acres	County	Agreements	Total Acres
Adams	7	1,211	Marathon	92	13,244
Ashland	2	766	Marinette	16	1,244
Barron	33	4,360	Marquette	1	258
Bayfield	13	2,688	Monroe	42	8,634
Buffalo	74	20,525	Oconto	6	598
Burnett	3	438	Oneida	1	620
Calumet	10	2,649	Outagamie	3	514
Chippewa	25	3,643	Pepin	41	7,115
Clark	168	35,191	Pierce	44	7,074
Columbia	31	3,975	Polk	30	5,789
Crawford	38	7,414	Portage	4	806
Dane	20	2,418	Price	6	1,000
Dodge	101	14,569	Richland	33	7,239
Door	17	1,959	Rock	9	1,754
Douglas	8	1,474	Rusk	9	1,525
Dunn	16	2,393	Saint Croix	13	2,266
Eau Claire	5	218	Sauk	103	17,368
Florence	2	516	Sawyer	2	755
Grant	54	12,922	Shawano	50	7,453
Green	86	13,237	Sheboygan	2	65
Green Lake	5	604	Taylor	27	4,119
Iron	1	338	Trempealeau	168	25,793
Jackson	13	2,670	Vernon	87	10,779
Jefferson	1	60	Washburn	4	508
Juneau	17	2,969	Washington	14	828
Kewaunee	1	80	Waukesha	6	592
La Crosse	2	381	Waupaca	32	4,063
Lafayette	50	9,223	Waushara	15	3,302
Langlade	105	27,552	Winnebago	1	129
Lincoln	2	632	Wood	<u>18</u>	<u>2,241</u>
			Total	1,789	314,750

Note: The Appendix does not show the 12 counties that contain no farmland preservation agreements. Counties containing no farmland preservation agreements are Brown, Fond du Lac, Forest, Iowa, Kenosha, Manitowoc, Menominee, Milwaukee, Ozaukee, Racine, Vilas and Walworth.

APPENDIX IV (continued)

Farmland Preservation Agreements

Agreements Entered under 2009 Act 374			Agreements Modified to Claim Post-2010 Farmland Preservation Tax Credit		
County	Agreements	Total Acres	County	Agreements	Total Acres
Barron	1	140	Ashland	1	628
Bayfield	2	571	Barron	1	165
Buffalo	5	1,520	Chippewa	5	720
Burnett	1	92	Clark	6	733
Chippewa	3	620	Crawford	5	1,551
Clark	1	74	Dodge	5	651
Crawford	1	250	Grant	2	588
Dodge	1	122	Green	3	583
Grant	2	1,228	Jackson	5	1,082
Green	3	394	Lafayette	6	725
Jackson	1	163	Langlade	3	826
Juneau	1	368	Lincoln	1	352
Langlade	2	509	Marathon	3	886
Marathon	2	378	Monroe	2	2,607
Monroe	1	230	Pepin	1	313
Oconto	1	263	Saint Croix	1	280
Pierce	5	1,318	Sauk	12	3,372
Polk	2	415	Vernon	6	1,216
Richland	5	916	Washington	<u>1</u>	<u>83</u>
Rusk	5	914			
Shawano	1	481	Total	69	17,361
Taylor	3	344			
Trempealeau	12	3,385			
Vernon	6	537			
Waushara	<u>2</u>	<u>741</u>			
Totals	69	15,973			

APPENDIX IV (continued)

Farmland Preservation Agreements

Post-2009 Act 28 Agreements in Agricultural Enterprise Areas (AEA)

County	Agreements	Total Acres	AEA
Calumet	6	2,260	Hilbert Ag Land on Track
Chippewa	3	487	Bloomer
	6	1,062	Cadott Area
Clark	151	32,978	Heart of America's Dairyland
Dane	1	90	Vienna-Dane-Westport
	9	940	Windsor
Dodge	1	24	Ashippun-Oconomowoc
	14	2,664	Burnett
	11	2,536	Elba-Portland
	3	299	Shields-Emmet
Jefferson	9	1,550	Trenton
	1	60	Scuppernong
La Crosse	2	381	Halfway Creek Prairie
Lafayette	14	2,810	Pecatonica
	6	1,324	Southwest Lead Mining Region
Langlade	96	26,002	Antigo Flats
Marathon	7	950	Antigo Flats
	28	4,306	Heart of America's Dairyland
Polk	1	240	Squaw Lake
Rock	9	1,754	La Prairie
Sauk	3	2,234	Fairfield
Shawano	13	2,283	Maple Grove
Waukesha	<u>4</u>	<u>398</u>	Ashippun-Oconomowoc
Totals	398	87,632	

APPENDIX V

Agricultural Enterprise Areas (AEAs)

Agricultural enterprise areas approved since 2009 Act 28 are listed below. For areas listed multiple times, each listing represents a subsequent addition. The areas listed below do not in all cases include the entire jurisdiction of each petitioning town. Owners of acres in the enterprise area would be eligible to enter into farmland preservation (FP) agreements and claim at least the minimum tax credit of \$5 per acre. In addition, for towns identified as having farmland preservation zoning, owners of lands that are located both in the enterprise areas and in farmland preservation zoning districts may be eligible for the maximum tax credit of \$10 per acre. Acreage listed as under farmland preservation zoning should be considered estimated.

AEA Name	County	Total Acreage	F.P. Zoning Acreage	Petitioning Municipalities	Under F.P. Zoning
January, 2011 Designees					
Antigo Flats	Langlade	62,278	See Note	Town of Ackley Town of Antigo Town of Neva Town of Peck Town of Polar Town of Price Town of Rolling	Yes Yes Yes Yes Yes No Yes
Ashippun-Oconomowoc	Dodge, Waukesha	28,841	9,499	Town of Ashippun (Dodge) Town of Oconomowoc (Waukesha)	No Yes
Bayfield	Bayfield	2,821	0	Town of Bayfield	No
Bloomer Area	Chippewa	4,380	0	Town of Bloomer	No
Cadott Area Cooperative	Chippewa	1,640	0	Town of Goetz Town of Delmar	No No
La Prairie	Rock	21,093	21,093	Town of La Prairie Town of Turtle	Yes Yes
Maple Grove	Shawano	21,669	21,669	Town of Maple Grove	Yes
Rush River Legacy	St. Croix	8,370	8,370	Town of Rush River	Yes
Scuppernong	Jefferson	14,015	14,015	Town of Cold Spring Town of Hebron Town of Palmyra Town of Sullivan	Yes Yes Yes Yes
Squaw Lake	Polk, St. Croix	9,607	1,624	Town of Alden (Polk) Town of Farmington (Polk) Town of Somerset (St. Croix) Town of Star Prairie (St. Croix)	No No Yes Yes
Town of Dunn	Dane	10,038	10,038	Town of Dunn	Yes
Windsor	Dane	<u>10,775</u>	10,775	Town of Windsor	Yes
Acreage Subtotal		195,527			

APPENDIX V (continued)

Agricultural Enterprise Areas

AEA Name	County	Total Acreage	F.P. Zoning Acreage	Petitioning Municipalities	Under F.P. Zoning
January, 2012 Designees					
Burnett	Dodge	14,736	14,736	Town of Burnett	Yes
Fairfield	Sauk	9,501	0	Town of Fairfield	No
Heart of America's Dairyland	Clark	60,985	See Note	Town of Beaver	No
				Town of Colby	Yes
				Town of Loyal	No
				Town of Mayville	No
				Town of Unity	No
Hilbert Ag Land on Track	Calumet	28,217	28,217	Town of Brillion	Yes
				Town of Chilton	Yes
				Town of Rantoul	Yes
				Town of Woodville	Yes
Trenton	Dodge	<u>26,492</u>	26,492	Town of Trenton	Yes
Acreage Subtotal		139,931			
January, 2013 Designees					
Antigo Flats (Expansion)	Langlade, Marathon	11,826	See Note	Town of Vilas (Langlade)	Yes
				Town of Harrison (Marathon)	No
Elba-Portland	Dodge	38,580	38,580	Town of Elba	Yes
				Town of Portland	Yes
Halfway Creek Prairie	La Crosse	1,647	1,647	Town of Holland	Yes
				Town of Onalaska	Yes
Heart of America's Dairyland (Expansion)	Marathon	36,999	See Note	Town of Brighton	Yes
				Town of Hull	Yes
Pecatonica	Lafayette	45,776	34,698	Town of Argyle	Yes
				Town of Blanchard	No
				Town of Lamont	Yes
Shields-Emmet	Dodge	16,051	12,656	Town of Emmet	No
				Town of Shields	Yes
Vienna-Dane-Westport	Dane	<u>20,681</u>	20,681	Town of Dane	Yes
				Town of Vienna	Yes
				Town of Westport	Yes
Acreage Subtotal		171,560			

APPENDIX V (continued)

Agricultural Enterprise Areas

AEA Name	County	Total Acreage	F.P. Zoning Acreage	Petitioning Municipalities	Under F.P. Zoning
January, 2014 Designees					
Fields, Waters and Woods	Ashland Bayfield, Bad River Band	41,089	0	Town of Ashland (Ashland)	No
				Town of Marengo (Ashland)	No
				Town of White River (Ashland)	No
				Town of Kelly (Bayfield)	No
Heart of America's Dairyland (Expansion)	Marathon	66,348	See Note	Town of Frankfort	No
				Town of Holton	No
				Town of Johnson	No
Southwest Lead Mine Region	Lafayette	103,143	103,143	Town of Gratiot	Yes
				Town of Monticello	Yes
				Town of Shullsburg	Yes
				Town of Wiota	Yes
Town of Grant	Chippewa, Dunn	<u>25,920</u>	22,291	Town of Auburn (Chippewa)	No
				Town of Cooks Valley (Chippewa)	No
				Town of Colfax (Dunn)	No
				Town of Grant (Dunn)	Yes
				Town of Otter Creek (Dunn)	No
				Town of Sand Creek (Dunn)	No
Acreage Subtotal		236,500			
January, 2015 Designees					
Friends in Agriculture	Clark	16,705	0	Town of Fremont	No
				Town of Lynn	No
Greenville Greenbelt	Outagamie	1,420	0	Town of Greenville	No
The Headwaters of Southwest Monroe County	Monroe	86,306	0	Town of Clifton	No
				Town of Glendale	No
				Town of Wellington	No
				Town of Wilton	No
Heart of America's Dairyland (Expansion)	Clark, Marathon	61,179	See Note	Town of Weston (Clark)	No
				Town of York (Clark)	No
				Town of Bern (Marathon)	No
				Town of Eau Pleine (Marathon)	Yes
				Town of McMillan (Marathon)	Yes
West Point	Columbia	<u>15,888</u>	15,757	Town of West Point	Yes
Acreage Subtotal		181,498			
Acreage Totals		925,016	595,607 (Est.)		

NOTE: As of January 1, 2015, the Antigo Flats AEA has 74,104 total acres designated, of which 61,397 is estimated to be under farmland preservation zoning. The Heart of America's Dairyland AEA has a total of 225,511 acres designated, of which 118,229 is estimated to be under farmland preservation zoning.

APPENDIX VI

Agricultural Conservation Easements

County/Town	Operation Type	Acres	Cooperating Entity/Entities	Appraised Value	DATCP Share		Other Designations	
					Purchase Costs	Transaction & Appraisal Costs	AEA	F.P. Zoning
Closed Purchases								
Columbia/Fountain Prairie	Beef	267	Natural Heritage Land Trust (NHLT)	\$526,300	\$263,150 *	\$5,193		X
Dane/Black Earth	Dairy	172	NHLT	560,900	280,450 *	4,264		X
Dane/Dunn	Tobacco, corn, soy	81	Town of Dunn, NHLT	254,900	127,450 *	4,578	X	X
Dane/Windsor	Heifer	136	Town of Windsor, NHLT	519,500	259,750 *	7,622	X	X
Dodge/Ashippun, Lebanon	Dairy, hay, seed	238	Tall Pines Conservancy	551,000	192,850	11,754	X	X
Iowa/Brigham	Dairy	450	Driftless Area Land Conservancy	550,000	275,000 *	9,591		X
Jefferson/Oakland	Dairy	225	Jefferson County	228,000	114,000 *	3,754		X
Jefferson/Palmyra, Sullivan	Beef, poultry	251	Drumlin Area Land Trust	482,500	241,250 *	6,224	X	X
Waupaca/Bear Creek	Dairy	567	Waupaca County	1,007,000	503,500	10,379		
Waupaca/Bear Creek	Dairy, grain	347	Waupaca County	533,000	266,500	10,569		
Waupaca/Farmington	Vegetables, berries	113	Waupaca County	258,768	129,384	5,103		
Waupaca/Lind	Dairy	801	Waupaca County	1,663,500	738,000	13,543		
Waupaca/Lind	Dairy	261	Waupaca County	532,500	266,250	0		
Waupaca/Lind	Dairy	238	Waupaca County	435,033	217,517	9,983		
Waupaca/Lind	Dairy	56	Waupaca County	102,135	51,067	0		
Waupaca/Scandinavia	Dairy	820	Waupaca County	1,385,000	692,500	17,250		
Waupaca/Scandinavia	Dairy	<u>101</u>	Waupaca County	<u>171,300</u>	<u>85,650</u>	<u>0</u>		
Total – All Easements		5,124		\$9,761,336	\$4,704,268	\$119,807		
Withdrawn from Program								
Iowa/Brigham	Dairy	438	Driftless Area Land Conservancy	\$855,000	--	--		X
Jefferson/Aztalan	Crop	121	Jefferson County, NHLT	268,000	--	--		X

* Easement was purchased in part with federal FRPP funding.

NOTE: Reimbursement to cooperating entities for transaction costs were capped at \$12,000. Also included in this column is a total of \$38,675 in DATCP expenditures incurred for second appraisals for certain easements.

APPENDIX VII

2011 Purchase of Agricultural Conservation Easements (PACE) Selection

Criteria to Rank Proposed Easements for PACE Grants

Point Summary:	Maximum Points Per Section
Section 1 Agricultural Capacity and Productivity	50
Section 2 Consistency with Planning and Zoning	45
Section 3 Development Pressure	45
Section 4 Ecological Services and Other Public Benefits	20
Section 5 Community Support	15
Section 6 Proximity to other Protected Land	10
Section 7 Qualitative Points	<u>15</u>
Total Possible Points	200

SECTION 1: Agricultural Capacity and Productivity (50 Total Possible Points)

A. Percentage of prime, unique, and statewide important soils on the parcel as defined by the NRCS Soil Survey.

1.	90% or more	40
2.	70% to 89.9%	30
3.	50% to 69.9%	20
4.	30% to 49.9%	10
5.	20% to 29.9%	5
6.	Less than 20%	0

B. Parcel Size: Ratio of total acres of land in parcel to be protected to the average farm size in the county. (For parcels applying as specialty agriculture, this question will be substituted with question 7D.)

1.	Ratios of greater than 1.0	10
2.	Ratios of 0.5 to 1.0	5
3.	Ratio of less than 0.5	0

Maximum number of points from Section 1: 50

SECTION 2: Consistency with Planning and Zoning (45 Total Possible Points)

A.	The parcel is located within a certified farmland preservation zoning district	15
B.	The parcel is located within a county or town with a TDR or PACE ordinance or official PACE advisory committee	15
C.	The parcel is located within an agricultural enterprise area designated by DATCP	10
D.	The parcel is located within a county or town where splits on farmland are limited by restrictive covenants	5

Maximum number of points from Section 2: 45

SECTION 3: Development Pressure
(45 Total Possible Points)

- A. Percent of parcel's boundary which is in agricultural use or accessory uses as defined in s. 91.01, Wis. Stats.
- | | |
|------------------|----|
| 1. 90% to 100% | 10 |
| 2. 80% to 89.9% | 8 |
| 3. 70% to 79.9% | 6 |
| 4. 60% to 69.9% | 4 |
| 5. 50% to 59.9% | 2 |
| 6. 40% to 49.9% | 1 |
| 7. Less than 40% | 0 |
- B. Percent of town land area in developed use in most recent land inventory available based on town, county, or regional planning commission data. Developed land area includes all urban uses including roads, commercial, industrial, and residential.
- | | |
|----------------|----|
| 1. 0 to 4.9% | 2 |
| 2. 5 to 9.9% | 10 |
| 3. 10 to 14.9% | 8 |
| 4. 15 to 19.9% | 6 |
| 5. 20 to 29.9% | 4 |
| 6. Over 30% | 2 |
- C. Change in population density by county between 2000 and 2007.
- | | |
|---|----|
| 1. 10 people or more added per square mile | 10 |
| 2. 4 to 10 people added per square mile | 8 |
| 3. 2 to 4 people added per square mile | 6 |
| 4. 1 to 2 people added per square mile | 4 |
| 5. Less than 1 person added per square mile | 2 |
- D. Sewer service area (SSA) pressure (points for section 3D are additive and will be capped at 10 points).
- D1. When 2007 population estimate is less than or equal to 10,000 and the parcel is:
- | | |
|-------------------------|---|
| 1. Less than 1 mile | 0 |
| 2. 1.1 to 3 miles | 3 |
| 3. 3.1 miles to 6 miles | 2 |
| 4. More than 6 miles | 0 |
- D2. When 2007 population estimate is greater than 10,000 and the parcel is:
- | | |
|-------------------------|---|
| 1. Less than 3 miles | 0 |
| 2. 3.1 to 5 miles | 3 |
| 3. 5.1 miles to 8 miles | 2 |
| 4. More than 8 miles | 0 |
- E. Distance from the nearest highway interchange. (A highway interchange is a grade-separated intersection with access ramps, usually linking at least one freeway to other intersecting roads.)
- | | |
|--|---|
| 1. The parcel is less than 0.5 miles | 0 |
| 2. The parcel is 0.6 to 3.0 miles | 5 |
| 3. The parcel is 3.1 to 6.0 miles | 4 |
| 4. The parcel is 6.1 to 10.0 miles | 3 |
| 5. The parcel is 10.1 to 15 miles | 2 |
| 6. The parcel is greater than 15 miles | 0 |

Maximum number of points from Section 3: 45

SECTION 4: Ecological Services and Other Public Benefits
(20 Total Possible Points)

A. At least 30% of the parcel is within a surface water quality management area, impaired waters 303(d) watershed, outstanding resource water (ORW) watershed, or exceptional resource water (ERW) watershed.	6
B. The parcel contains natural or restored wetlands (3 acres or greater)	5
C. The parcel is identified for protection in a federal, state, regional, or local conservation, recreation or open space plan.	5
D. The parcel has been designated as, or is adjacent to, a state or local landmark, historic, or archaeological site.	2
E. The parcel is located along a designated scenic by-way or rustic road.	1
F. The parcel is a century farm.	<u>1</u>
Maximum number of points from Section 4:	20

SECTION 5: Community Support
(15 Total Possible Points)

A. Affected city or village has passed a resolution in support of easement purchase.	4
B. Affected town has passed a resolution in support of easement purchase.	4
C. Affected county has passed a resolution in support of easement purchase.	4
D. Affected town has entered into an intergovernmental boundary agreement with nearby city or village.	<u>3</u>
Maximum number of points from Section 5:	15

SECTION 6: Proximity to other Protected Land
(10 Total Possible Points)

"Permanently protected land" includes farm and other lands protected by a permanent conservation easement, public land (parks, state wildlife area, etc.) or land owned by a non-profit organization for conservation purposes.

A. Adjacency to permanently protected land	
1. The parcel is immediately adjacent to 200 acres or more of permanent protected land	5
2. The parcel is immediately adjacent to 100 to 99.9 acres	4
3. The parcel is immediately adjacent to 50 to 99.9 acres	3
4. The parcel is immediately adjacent to 20 to 49.9 acres	2
5. The parcel is immediately adjacent to 5 to 19.9 acres	1
6. The parcel is immediately adjacent to 0 to 4.9 acres	0
B. Proximity to permanently protected land (# of protected acres within one mile of the parcel):	
1. 1,000 acres or more	5
2. 500 to 999.9 acres	4
3. 250 to 499.9 acres	3
4. 100 to 249.9 acres	2
5. 25 to 99.9 acres	1
6. Less than 25 acres	0
Maximum number of points from Section 6:	<u>10</u>

SECTION 7: Qualitative Points
(15 Total Possible Points)

- A. **Is infrastructure readily available to support continued agricultural use of the property? Describe services, facilities, programs and other resources that are available to support continued agricultural use of farmland in the area.** For example, feed suppliers, implement dealers, veterinarians, value-added processing facilities or markets are located nearby. 5
- B. **Are there factors that make this parcel more important from an economic development perspective than other properties? Will protection of the parcel have a direct, positive economic impact on the broader community?** For example, the farm supports or will create jobs, other farmers rely on the farm for contracts and agreements, the farm contributes to value-added production or is a destination for agri-tourism 5
- C. **Have capital investments been made associated with the property or does the property contain improvements that make the parcel especially valuable from an agricultural perspective and contribute to the farm's long-term viability?** For example, the landowner has constructed irrigation wells, silos, a manure digester, an on-site cheese factory or other buildings or investments have been made in conservation practices such as contour buffer strips, terraces, and improved drainage. 5
- D. **(Specialty agricultural applicants only) Is the parcel located in an area or region that is unique or particularly valuable from an agricultural perspective? Describe the relationship and importance of the parcel to other specialty agricultural operations in the area.** For example, the area is known for its high quality soils or is particularly well suited to certain kinds of high-value crop production. 10
- Note: For specialty agriculture applications, this question replaces 1B. Point values for each section are adjusted accordingly for each application type.*
- E. Please provide additional information to supplement or further explain responses to the questions asked in Sections 1 through 7 of the application. N/A

Maximum number of points from Section 7: 15

MAXIMUM NUMBER OF POINTS FROM SECTIONS 1 THROUGH 7: 200

APPENDIX VIII

Example Calculation of a Pre-2010 Farmland Preservation Tax Credit for an Agreement Holder

Example Claimant

Farm is subject to a farmland preservation agreement
Household Income = \$23,000
Property Taxes = \$4,700

Formula	Example Claimant
<u>Step 1: Calculate "Income Factor"</u>	
	Income
	<u>Income</u> <u>Factor</u>
0% of 1st \$5,000 of household income	0% x \$5,000 = \$0
7% of 2nd \$5,000 of household income	7 x 5,000 = 350
9% of 3rd \$5,000 of household income	9 x 5,000 = 450
11% of 4th \$5,000 of household income	11 x 5,000 = 550
17% of 5th \$5,000 of household income	17 x <u>3,000</u> = <u>510</u>
27% of 6th \$5,000 of household income	
37% of household income over \$30,000	
	TOTAL \$23,000 \$1,860
 <u>Step 2: Determine "Excessive Property Tax"</u>	
Eligible Property Tax - Income Factor = Excessive Property Tax	\$4,700 - \$1,860 = \$2,840
 <u>Step 3: Determine "Potential Credit"</u>	
Potential Credit equals:	
90% of first \$2,000 of excessive property tax	90% x \$2,000 = \$1,800
plus 70% of next \$2,000 of excessive property tax	70 x 840 = <u>588</u>
plus 50% of next \$2,000 of excessive property tax	
	Potential Credit = \$2,388
 <u>Step 4: Determine "Actual Credit"</u>	
Actual Credit equals:	
100% of the potential credit if the farmland is covered by county, city, village, or town zoning, a preservation agreement, and a county plan.	Claimant is covered by an agreement and is subject to a county plan, but not exclusive agricultural zoning. Therefore, the formula credit equals:
80% of the potential credit for farmland covered by a preservation agreement and a county plan.	80% x \$2,388 = \$1,910
10% of eligible property taxes if this amount is larger than the tax credit formula amount.	The minimum credit equals: 10% x \$4,700 = \$470
	\$1,910 is greater than \$470, so
	Actual Credit = \$1,910