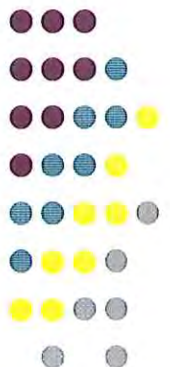


# Working Lands and Farmland Preservation Tax Credits

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## 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 WLI Steering Committee recommended multiple changes to the state's farmland preserva-

tion 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 two parts: (a) land-use policies; and (b) 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. 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. It also contains information on the farmland tax relief credit, which was repealed by Act 28.

Prior to 2009 Act 28, municipalities were authorized to use agricultural preservation plans and exclusive agricultural zoning ordinances 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. Lands under these designations made landowners eligible for farmland preservation tax credits. 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 are not affected by Act 28, although new or modified agreements must meet different requirements, which are discussed below. 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.

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### Farmland Preservation Plans

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Under 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 environ-

mental 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.

### 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. Further, the statutes specify that counties with existing preservation plans scheduled to expire soonest take priority for grant awards. Act 28 provided

\$415,800 general purpose revenue (GPR) beginning in 2010-11 for planning grants. No funds may be encumbered under the appropriation after June 30, 2016, as all farmland preservation plans are to be adopted by January, 2016. Instead, it is expected that future planning grants will be increasingly supported by an annual appropriation from the segregated working lands fund, which was created under Act 28. DATCP has no expenditure authority for working lands SEG in the 2009-11 biennium, however. DATCP in January, 2010, completed the first application period for planning grants. As of January, 2011, the Department was still in the process of disbursing grant funds from that round of awards. Grant awards are included in Appendices 1 and 2.

### Expiration Dates

Agricultural preservation plans certified before the effective date of Act 28 remain in effect, provided their certifications have not expired or been withdrawn. For existing certified plans that specify their own expiration dates, they will expire on the date established. However, if a date is not specified, 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 Department of Administration's 2007 population estimates. Expiration dates based on population increases would occur as shown in Table 1. Appendices 1 and 2 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 will set

**Table 1: 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

expiration dates for new and revised plans adopted following the enactment of Act 28. A plan may be certified for up to 10 years.

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 December, 2010, two counties (Dodge and Jefferson) and four towns had used this authority with respect to farmland preservation plans. The four towns are: (a) Taycheedah (Fond du Lac County); (b) Hortonia (Outagamie County); (c) Hartford (Washington County); and (d) Kewaskum (Washington County). (Although towns typically do not engage in farmland preservation planning, some county plans have been amended with town-specific plans. Such amendments are intended to designate certain areas for agricultural preservation and allow them to participate in farmland preservation programs, including tax credits.)

The population-based expiration dates and the 10-year certification limit are intended to require counties to both reassess their existing farmland preservation plans and 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.

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### **Farmland Preservation Zoning**

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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 6.8 million acres in Wisconsin were under a certified

farmland preservation zoning ordinance as of December, 2010.

Counties, towns and municipalities are not required to enact farmland preservation zoning ordinances, nor were they required to do so prior to 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 landowners 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 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. The ordinance also must include any jurisdictional, organizational and enforcement provisions necessary to administer the ordinance.

Although counties, towns, villages, and cities may enact farmland preservation zoning ordinances, the type of municipality administering an ordinance may vary throughout the state. County zoning ordinances are enacted and administered by the county, but apply only in towns that have agreed to be covered by county zoning ordinances. Appendix 3 identifies counties that currently have county farmland preservation zoning ordinances.

Conversely, some counties have declined to create zoning ordinances, instead leaving those activities to cities, villages and towns. In other cases, certain municipalities may refuse to adopt their county's zoning designations, meaning that these smaller entities would create and administer their own zoning ordinances if they so chose. Ap-

pendix 3 also identifies towns, villages and cities that administer their own zoning ordinances.

All villages and cities shown in Appendix 3 are incorporated and exercise their own zoning independent of counties. 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. Appendix 3 distinguishes between municipalities that administer county ordinances and those that administer their own ordinances. The Appendix also 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 2, land uses in farmland preservation zoning districts may be: (a) permitted 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 under previous law. 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 children, or a person earning more than 50% of his or her gross income on the farm, or a certified migrant labor camp. Under the act, 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

**Table 2: Allowed Uses in Certified Farmland Preservation Zoning Districts**

Use	Description
<i>Agricultural</i>	<ul style="list-style-type: none"> <li>-Crop or forage production.</li> <li>-Keeping livestock.</li> <li>-Beekeeping.</li> <li>-Nursery, sod or Christmas tree production.</li> <li>-Floriculture.</li> <li>-Aquaculture.</li> <li>-Fur farming.</li> <li>-Forest management.</li> <li>-Enrollment in a federal agricultural commodity payment program.</li> <li>-Enrollment in a federal or state agricultural land conservation payment program.</li> <li>-Other agricultural uses identified by DATCP administrative rule.</li> </ul>
<i>Accessory</i>	<ul style="list-style-type: none"> <li>-A building, structure or improvement that is an integral part of or incidental to an agricultural use.</li> <li>-An activity or business operation that is an integral part of or incidental to an agricultural use.</li> <li>-A farm residence.</li> <li>-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.</li> <li>-Other accessory uses identified by DATCP administrative rule.</li> </ul>
<i>Agriculture-related</i>	<ul style="list-style-type: none"> <li>-An agricultural equipment dealership.</li> <li>-A facility providing agricultural supplies.</li> <li>-A facility for storing or processing agricultural products.</li> <li>-A facility for processing agricultural wastes.</li> <li>-Other accessory uses identified by DATCP administrative rule.</li> </ul>
<i>Nonfarm residential uses</i>	<ul style="list-style-type: none"> <li>-Nonfarm residences, subject to density and siting standards.</li> <li>-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 individual residences.</li> </ul>
<i>Other uses</i>	<ul style="list-style-type: none"> <li>-Undeveloped natural resource areas or open-space areas; no permit required.</li> <li>-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.</li> <li>-Uses mandated for a specific place under state or federal law; no permit required.</li> </ul>

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

agricultural use of other protected farmland. 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. A base farm tract is defined as a single contiguous farm or other tract as defined by DATCP rule, and which is

determined as of the date of an ordinance's enactment or an earlier date established by the zoning authority.

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 defined in the act, because 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 is intended to allow for limited nonfarm residential development in farmland preservation zoning districts without the land being subject to a conversion fee, which is described later in greater detail.

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.

DATCP has authority to promulgate rules identifying additional conditional uses or imposing limits on allowable conditional uses, consistent with the statutory allowances. However, as of December, 2010, the Department had no immediate plans to promulgate rules modifying permitted or conditional uses.

### Expiration Dates

As is the case with farmland preservation plans, any exclusive agricultural zoning ordinance certification that was in effect prior to Act 28 remains in effect until its expiration date. A certification ordinance expiration date is either that specifically declared in a DATCP certification order, or, if not so

**Table 3: 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

specified, that date determined by the political subdivision's population increase per square mile between the 2000 U.S. Census and the Department of Administration's 2007 population estimates. This is the same schedule used for population-based expiration dates of farmland preservation plans, except certifications typically expire one year later so ordinances are consistent with plans. Table 3 lists the statutory expiration dates. Appendix 3 shows the expiration dates of farmland preservation zoning ordinances currently in effect, as well as the number of jurisdictions with ordinances 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 December, 2010, DATCP had granted two-year extensions to several jurisdictions, which are shown in Appendix 3. These municipalities had ordinances scheduled to expire in 2009. This extension will allow eligible landowners to continue claiming farmland preservation tax credits for the duration of the extension. Additionally, several jurisdictions had zoning ordinances that expired in 2008. DATCP has required these places to recertify their ordinances, although all but two (the town of Clay Banks in Door County and the town of Oregon in Dane County) have elected to forego recertification.

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.

### **Conversion Fees and Special Assessments**

Act 28 contains provisions for local zoning authorities seeking to rezone lands from farmland preservation zoning districts. Lands rezoned from farmland preservation zoning districts to other designations after January 1, 2010, incur a conversion fee. The fee is intended as a disincentive to convert land that has previously been designated

for agricultural purposes and that may have previously claimed farmland preservation tax credits. The fee does not apply to areas removed from farmland preservation zoning districts under an ordinance recertification, nor does it apply if rezoned land is no longer designated for agricultural preservation under a certified county plan.

The minimum fee is three times the per-acre value 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, and would be applied for the year in which the land is rezoned. While cropland values vary, the 2011 statewide average is approximately \$227 per acre, meaning an average conversion fee may be \$681 per acre. The 2010 average is \$236, for a possible average conversion fee of \$708 per acre. However, many of the areas with farmland preservation zoning, which are generally in the southern parts of the state, have higher use values than areas in the north. DATCP officials therefore generally estimate conversion fees of about \$810 per acre to reflect higher effective use values under the Working Lands Initiative.

Conversion fees are payable by the party requesting the rezoning, and must be submitted to the local unit of government. In turn, local units of government must report to DATCP annually by March 1 the number of acres converted out of farmland preservation zoning districts in the preceding year, and the local government must submit to DATCP the minimum conversion fee as described above for the acreage converted. It should be noted that local units of government submit conversion fees for all lands rezoned. Thus, if a rezoning takes place at the municipality's initiative and not that of an individual, the municipality incurs the cost of the rezoning.

The statutes permit zoning authorities to specify a higher fee within their ordinances. If a municipality imposes a higher conversion fee, the municipality's payment to DATCP still would be the tripled Grade 1 use value. The additional fee

collections would remain with the local government, but that jurisdiction must use the revenues for farmland preservation planning, zoning activities and compliance monitoring. For example, a unit of government might impose a conversion fee of four times the per-acre value of the highest value category of tillable cropland in its jurisdiction. If the Grade 1 use value for the town in which the rezoning occurred equaled the \$227 statewide average, the municipality would collect \$908 per acre for a conversion occurring in 2011. If the local government had one converted acre, it would submit a payment of \$681 to DATCP by March 1, 2012. It would retain \$227 to be used for farmland preservation programming.

In addition to collecting applicable conversion fees, a zoning authority must find the following to approve a rezoning: (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.

Conversion fees collected by DATCP are deposited to the segregated working lands fund. As of December, 2010, the fund had begun receiving a small number of deposits, and the fund balance was \$8,200. Most deposits will occur after January 1, 2011, and all deposits for 2010 agricultural preservation zoning conversions must be submitted to DATCP by March 1, 2011. DATCP estimates conversions that had been totaling between 6,000 and 12,000 acres annually prior to 2009, have now decreased to about 4,000 acres each year due to recent economic conditions, but the Department does not estimate conversions to be lower than 2,000 acres. Conversions of 2,000 to 4,000 acres could generate between \$1.4 million and \$3.2 million in revenue each year.

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 exclude 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.

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### **Farmland Preservation Agreements**

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As under previous law, DATCP and willing landowners could enter into farmland preservation agreements. Farmland preservation agreements 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 2.)

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, and new agreements may only be created in agricultural enterprise areas, which are described below. New agreements must also conform to re-

quirements 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 in greater detail below.

Interested landowners may apply to the clerk of each county in which land to be under the agreement is located. Act 28 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.

Under prior law, farmland preservation agreements could be terminated for specific reasons contained in the statutes. 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. Similar to the provisions for rezoning land in a farmland preservation zoning district, a conversion fee is three times the per-acre value of the highest-value category of tillable cropland in the city, village or town in which the land at issue is located.

Values would be those specified by the Department of Revenue for the year in which the termination or release occurs. All conversion fees would be deposited to the segregated working lands fund.

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 December 1, 2010, 4,065 farmland preservation agreements covering 554,700 acres were in effect in Wisconsin. These agreements are shown by county in Appendix 4. Of the active agreements, all but 27 were in effect prior to Act 28. The remaining 27 took effect under provisions of 2009 Act 374, which 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 therefore, 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.

DATCP reports 88 applications for farmland preservation agreements were eligible to enroll in the program under Act 374. The 61 applications not yet accepted included: (a) 23 approved but awaiting a landowner's signature; (b) seven either withdrawn voluntarily by the landowner or failing to meet requirements under the act for notifying DATCP of an intent to proceed; (c) 21 applicants who had elected to proceed, but whom DATCP was still evaluating; and (d) 10 for which the applicant's time limits for notification had not expired, but from whom DATCP had not yet received notification of intent to proceed. The act requires DATCP to send a letter by certified mail to each person whose application was received but not completed by July 1, 2009. The person has 90 days from receipt of the letter to notify DATCP of his or her intention to enter into a farmland preservation agreement. Any letter recipient not notifying DATCP within that time may not proceed with an application under the 2007 statutes. An agreement created under Act 374 may be valid for up to 10 years.

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### **Agricultural Enterprise Areas**

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Unlike the policy instruments discussed earlier, agricultural enterprise areas did not exist under previous law. Agricultural enterprise areas are intended to be areas targeted for agricultural preservation and development, namely for preserving, expanding and developing farms and other agribusiness. Agricultural enterprise areas must: (a) consist of contiguous parcels, including parcels separated 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 pri-

marily in agricultural use.

The process for designating agricultural enterprise areas 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 enterprise area; (b) a clear description of the agricultural land use and development goals for the proposed agricultural enterprise area; (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 enterprise area, 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 certain levels of farmland preservation tax credits, unless land under the agreement is located in an agricultural enterprise area. If DATCP were to modify or terminate a designation such that land covered by a farmland preservation agreement is no longer in an agricultural enterprise area, the agreement would remain in effect for the specified term, but it could not be renewed or extended.

Act 28 authorizes DATCP to have up to 1,000,000 total acres designated in agricultural enterprise areas, but not more than 15 areas covering not more than 200,000 acres combined before January 1, 2012. The act specifies that DATCP give preference to areas of at least 1,000 acres of land in

determining which areas to designate.

In February, 2010, DATCP received 12 petitions covering 222,000 acres for designation as agricultural enterprise areas. The Department in June, 2010, approved all 12 petitions covering 198,246 acres. The Department modified some petitions due to some areas not being located in areas designated for farmland preservation under a certified farmland preservation plan. Other acreage was removed for being public land; designating public land would count against statutory acreage limits, but public land is not eligible for farmland preservation agreements.

DATCP has authority under Act 28 to designate agricultural enterprise areas by emergency administrative rule, and the rule remains in effect until DATCP modifies or repeals the rule. The final administrative rule designating the areas was published in November, 2010, and took effect January 1, 2011. The agricultural enterprise areas are listed in Appendix 5.

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### **Soil and Water Conservation**

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The farmland preservation program previously required landowners to comply with soil and water conservation practices. 2009 Act 28 contains similar requirements for landowners receiving farmland preservation tax credits. Previous law required landowners follow soil and water conservation plans that were designed, monitored, and enforced by county land conservation committees. The conservation plans were in turn based on soil and water conservation standards established by the county committees. County standards were to be consistent with state soil and water conservation standards.

Act 28 repealed these provisions, and instead requires recipients of farmland preservation tax credits to comply with farm conservation stan-

dards established by DATCP in administrative rule ATCP 50 (soil and water resource management). Standards must also be consistent with performance standards in administrative rule NR 151 (run-off management) under the Department of Natural Resources. 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. DATCP will also have rule-making authority for this responsibility. The administration indicates these changes are intended to streamline the application of soil and water conservation standards, as well as their enforcement.

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### **Purchase of Agricultural Conservation Easements (PACE)**

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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 would restrict the landowner in perpetuity from selling or 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, and, as of December, 2010, consists of 17 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 since its creation has advised DATCP staff on implementing and modifying program provisions. This guidance, which is described below in greater detail, pertains to DATCP's purchase practices and methods for evaluating prospective easements.

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

### **Application and Selection Procedures**

DATCP is required annually to solicit applications from entities interested in participating in the program. The first application period following the program's creation began in March, 2010, and DATCP preliminarily approved 16 applications in August, 2010. These easements with preliminary approval are shown in Appendix 6. It should be noted that these selections do not connote final approval. Proposals must also fulfill other statutory requirements on PACE purchases, and purchase terms must be negotiated.

DATCP announced its second application period in November, 2010, with applications due in February, 2011, and approvals expected by April, 2011. The Department anticipates this latest timeline will be followed in subsequent years.

PACE applications are to be submitted by co-operating 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 the criteria by which easements are ranked does give greater consideration to land under these designations. DATCP must also find that a proposed easement serves a public purpose; this is a requirement of the general obligation bonding used to fund the program, which is discussed later in greater detail.

DATCP staff and the PACE Council have established additional criteria as follows:

- The easement's location must be consistent with a local comprehensive plan, if one exists;
- A qualified farm 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, has established a worksheet that further clarifies these considerations and also assigns point values that form the basis for ranking applications. DATCP has also developed a modified application for persons who practice specialty agriculture, including production of fruits, vegetables, tree nuts, horticulture, floriculture and other nursery crops. The application and ranking criteria for specialty agriculture are intended to account for production occurring on smaller parcels that may be uniquely suited for specialty agriculture. Of the 36 proposals DATCP received in the first PACE application period, two were for specialty cropland. The ranking criteria are shown in Appendix 7.

It should be noted that in quantifying many of the criteria listed above, several scoring categories

have been structured to give lower priority to easement proposals that are either under significant development pressure, or under little to no development pressure. For example, a parcel will 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 aim 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 urban or suburban areas in the near future; and (b) easements that are remote and not imminently vulnerable to being diverted from agricultural use.

### **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 is allowed to cover are discussed later in greater detail.

*Appraisals.* In addition to the required documentation noted above, any preliminarily approved 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.



*Legislative Review.* 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, the easement purchase would be approved if, within 14 working days of receiving notification, the Committee's Co-chairs do not schedule a meeting to review the purchase. If a meeting of the Committee is scheduled, the purchase is approved unless a majority of Committee members present vote to modify or deny the proposal.

*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. The act specifies that under such an occurrence, DATCP may still pay up to 50% of the fair market value. Therefore, in such an instance, the cooperating entity would realize the monetary benefit of the donation.

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 are to 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 under the act to specify allowable transaction costs by administrative rule, consistent with the definition contained in the act. For this purpose, DATCP has emergency rule-making authority.

The Department has not begun the administrative rule-making process as of December, 2010. Although not by rule, the Department has, under the

advice of the PACE Council, established limits for each easement purchase of 80% of eligible transaction costs up to a maximum state payment of \$12,000. Further, for the 2011 application period, the Department has established limits on reimbursements for certain costs. For example, DATCP will reimburse attorney fees and documentation of existing land uses up to \$1,500 for each activity. The Department also considers a limited number of attorney activities as eligible for reimbursement, including easement review, review of the purchase contract between DATCP and a cooperating entity, and review of proposed resolutions of title disputes. Land surveys must obtain departmental approval, as not all easements may require such reviews. In addition to the statutorily defined transaction costs, DATCP also allows for environmental hazards assessments completed under contract with professional consultants, as well as signage at the property under easement declaring the land's enrollment in the program.

Program officials report transaction costs to be reimbursed may vary with each easement, as certain parcels may require additional title verification, land surveys or other study. In the absence of an administrative rule, PACE officials report transaction costs are to be contained in the purchase contracts reached with cooperating entities. Contracts will also detail standards for appraisals and other terms of the easement purchase.

Following the purchase of an easement, a cooperating entity must 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 after providing proof that title conflicts have been resolved and, if applicable, subordinated to the easement, cooperating entities may submit documentation of purchase and transaction costs to seek reimbursement.

As of December, 2010, no easement transactions had been completed. DATCP estimates most ease-

ments will take between 12 and 24 months for a transaction to be fully negotiated and recorded. Easement purchases using funding from the federal Farm and Ranch Lands Protection Program (FRPP), which is described later in greater detail, are estimated to take an average of 20 months to complete.

### **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 the owner's heirs, 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 accessory uses, as defined in Table 2; (c) undeveloped open spaces or natural resource areas; (d) fencing; and (e) government-approved natural resource conservation practices.

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 that would be inconsistent with the overall purposes of the easement, namely the viability and productive capacity of the covered land.

Because landowners retain ownership of the land under the easement, easements generally do not restrict their ability to sell, bequeath or grant mortgages on the property, nor do easements relieve the landowner of responsibilities he or she otherwise has regarding the land's management and upkeep. Easements also 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.

A cooperating entity may assign its interest to either another eligible cooperating entity or DATCP. Under the statutes and under general easement terms, DATCP's interest in an easement is not affected by any transfer or relinquishment by another holder or by sale or transfer of the covered land.

DATCP, or any other holder of an easement, 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. 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 provides \$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 or perpetual easements to help control soil erosion and maintain or improve water quality. The state participates in CREP under an agreement with the United States Department of Agriculture. The agreement requires the state to provide a 20% match for up to \$200 million in federal payments to landowners.

Debt service for PACE bonding authority will be supported by both GPR and the working lands fund, although no working lands SEG has been budgeted for PACE debt service in the 2009-11 biennium. Further, Act 28 created two other appropriations to fund agricultural conservation easements: (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 appropriation from the segregated working lands fund. As of December, 2010, no expenditures were anticipated from any PACE appropriations in the 2009-11 biennium.

*Farm and Ranch Lands Protection Program Cooperation.* In some instances, DATCP expects that the PACE program may be able to combine with the

federal FRPP to leverage funding available under this federal program for the purchase of agricultural conservation easements. The USDA has allocated \$17.2 million in FRPP funding since the program's inception through the 2008-09 federal fiscal year. Much like the state pays under PACE, FRPP allows the U.S. Department of Agriculture (USDA) to pay up to 50% of the cost of an easement. FRPP also has established a per-acre maximum payment of \$4,000. However, the cooperating entity must 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. Therefore, if a landowner donates more than one-third of the fair market value, the federal share will be lower than 50% of fair market value.

DATCP's role in the FRPP is not equivalent to that of a cooperating entity in the state program; as under PACE, FRPP requires that cooperating entities be local governments or conservation organizations. This means DATCP is not required to make a 25% match for any easements claiming FRPP funding. However, the state is a holder of any easement using PACE and FRPP funding, and state funds may count toward a cooperating entity's required match under FRPP, up to the 50% not covered by federal funding.

Easements coordinated between PACE and FRPP will be drafted in accordance with both programs' provisions. In general, the program requirements are similar, except FRPP requires language allowing for some third-party enforcement of easement terms and additional details regarding required conservation planning.

*2010 Approvals.* As of December, 2010, DATCP had not received appraisal information for all easements preliminarily approved in the 2010 application period. Of the 16 easements preliminarily approved in 2010, DATCP had received appraisals for nine, eight of which were expected to proceed in coordination with FRPP. (Information for joint FRPP easements was available earlier due to USDA requiring an appraisal to be submitted in conjunction

with an application.) The nine easements would cover approximately 2,167 acres and are preliminarily appraised at \$4.54 million, of which \$3.69 million would represent joint purchases with FRPP funds. DATCP's preliminary estimated share of the purchase price for these easements is about \$2.27 million or approximately \$1,050 per acre, on average, for the 2,167 acres. The average fair market value of the nine easements is \$504,500. Preliminary appraisal information is included with the list of approved easements in Appendix 6.

It should be noted that of the proposals with an appraised value as listed in Appendix 6, six would be required to have a second appraisal due to having an estimated value of more than \$350,000. The final purchase prices of these easements, however, were still under negotiation as of December, 2010. Also, as of December, 2010, DATCP does not estimate any of the proposals shown in Appendix 6 will have total purchase and transaction costs to the Department of more than \$750,000, which would require a review by the Joint Committee on Finance.

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### **DATCP Administration**

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DATCP reports the Working Lands programs have been implemented since July, 2009, by assigning staff that also carry out other programs in DATCP's Division of Agricultural Resource Management. DATCP indicates eight staff persons are partly or wholly assigned to Working Lands programs as of December, 2010. Of this total, five are staff of the Bureau of Land and Water Resources supported by the nonpoint account of the segregated environmental fund. Each of the following fund sources supports one position: (a) the segregated agricultural management fund; (b) program

revenues; and (c) federal funding. DATCP estimates the staffing resources allocated by these positions to Working Lands programs are \$392,200 and 5.2 FTE positions as of December, 2010.

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 for 2009-11. It is expected that DATCP could begin using working lands SEG for administrative costs in the 2011-13 biennium, following the fund's first receipts of conversion fees by March, 2011. However, any expenditure authority for program administration would have to be made either through budget legislation or by Joint Committee on Finance approval of supplemental funding.

It should be noted that an annual working lands SEG appropriation was also created under Act 28 for the Department of Revenue's administration of the farmland preservation tax credit. This appropriation also has no expenditure authority in the 2009-11 biennium.

### **Working Lands Reporting Provisions**

Under Act 28, DATCP, in cooperation with the Department of Revenue, also must report to the Board of Agriculture, Trade and Consumer Protection and the Department of Administration 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 landowners claiming tax credits, and program costs and trends, including recommendations for program modifications.

*FARMLAND PRESERVATION AND TAX RELIEF CREDITS***Introduction**

Beginning with tax year 2010, 2009 Act 28 essentially ends 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 are 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.

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, encourages 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. Remaining farmland preservation agreement holder credits are paid from a general purpose revenue (GPR), sum sufficient appropriation and total credits are estimated at \$400,000 in 2010-11.

The farmland tax relief credit was also a refundable credit provided through the state income tax system. The credit reimbursement rate for net property taxes levied on agricultural land only was established annually by the Department of Revenue (DOR). The maximum allowable credit

was \$1,500. This credit was not affected by an individual's income. Credit payments were made from a sum sufficient, lottery fund appropriation, except for 1999-00, when the credits were paid from a sum sufficient, general fund appropriation. In 2009-10, credit payments totaled over \$14.3 million.

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**Per-Acre Farmland Preservation Tax Credits**


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Beginning in tax year 2010, Act 28 creates 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 that is 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 that is entered into after July 1, 2009; or
- c. \$5, if the qualifying acres are subject to a farmland preservation agreement that is entered into after July 1, 2009, but are not located in a farmland preservation zoning district.

The credit will receive total funding of \$27,007,200 GPR in 2010-11. If the total amount of eligible claims exceeds \$27,007,200, the excess claims must be paid in the next succeeding fiscal

year to ensure that the funding limit is not exceeded. For 2011-12, and each succeeding fiscal year, DOR is required to prorate the per-acre amounts based on the Department's estimate of the amount of eligible claims to be filed for that fiscal year, and to account for any excess claims from the preceding fiscal year. 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.

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.

Act 28 allows existing farmland preservation agreement holders to continue to file a claim for the pre-2010 farmland preservation credit until their agreement expires. Also, such claimants are allowed to modify their existing farmland preservation agreements in order 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.

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 for payment to the claimant (the credit is "refundable").

### **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, Act 28 defines a "farm" 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 2 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 house-

hold (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, all persons from that household are ineligible to claim a per-acre farmland preservation credit for the year to which the homestead 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 in this state for a ward who owns the farmland, the claimant is the guardian on behalf of the ward.

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 credits.

Act 28 deletes the requirement for existing credit claimants that a lien must be placed on any land rezoned out of a farmland preservation zoning district or when a conditional use permit is granted 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 is replaced with conversion fees, which would be charged on a per-acre basis at a rate equal to three times the per-acre use value for the highest category of tillable cropland, as determined by DOR, for the municipality where the land is located.

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### **Pre-2010 Farmland Preservation Tax Credit**

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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) 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 that cover 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 nonfarm 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.

*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 8 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 are: (1) county farmland preservation plans; (2) individual preservation agreements; and (3) exclusive agricultural zoning. The level of tax credit varies depending on the land use policy in effect. In addition, all participants must comply with certain soil and water conservation standards. Under Act 28, pre-2010 tax credits can continue to be claimed only under an eligible farmland preservation agreement.

### **Farmland Preservation Plans**

In order for farmland owners to receive a credit under a preservation agreement, the county containing the farm must have a farmland preservation plan in place. Preservation plans include maps that identify farmland to be preserved, special environmental areas (such as wetlands), and transition areas suitable for future development. The county must also state its policies regarding farmland preservation, development, the provision of public services, and protection of environmental areas. The plan must contain a program of "specific public actions designed to preserve agricultural lands and guide urban growth." Only Milwaukee and Menominee counties have not adopted a county plan.

### **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. The farmland generally must be in a farmland preservation area under a county preservation plan or under exclusive agricultural zoning before the owner can sign a contract.

*Application.* An eligible farmland owner files an application for a contract with the county clerk. This is followed by a period for review and comment by affected governments and agencies (for example, the county planning and zoning agency or county land conservation committee). The local governing body with zoning jurisdiction (generally the county board) must certify that the land is subject to the required planning provisions. The local governing body then approves or rejects the application. Generally, preservation agreements signed after July 1, 2009, only pertain to the per-acre farmland preservation credit, except for those approved under 2009 Act 374 as described earlier. Those under an existing farmland agreement can modify their agreements with DATCP to meet the requirements of the per-acre credit in order to be eligible for that credit. As of December, 2010, no estimates were available as to how many persons may be modifying agreements to become eligible for the per-acre credit.

*Contracts.* Contracts are for 10 to 25 years for land in a preservation district and five to 20 years for farmland in a transition area under a county preservation plan. Contracts are not required for land located in an exclusive agricultural zone, but farmers with land in these areas can sign a contract.

*Current Participation.* As of December, 2010, there were about 4,100 farmers under farmland preservation agreements covering 554,700 acres.

### **Exclusive Agricultural Zoning**

Exclusive agricultural zoning ordinances designate certain lands for exclusive agricultural use. In general, the procedures for adopting and administering exclusive agricultural zoning are identical to procedures for other types of zoning. Those claiming the pre-2010 credit based solely on exclusive

agriculture zoning can no longer apply for that credit after tax year 2009. However, due to their existing zoning and land use restrictions, these claimants are likely to be eligible for the new, per-acre tax credit.

### Program Participation and Expenditures

The pre-2010 farmland preservation tax credit is funded through a sum-sufficient appropriation from the state's general fund. The amount expended for credit payments for each fiscal year since 2000-01 is listed in Table 4.

**Table 4: Pre-2010 Farmland Preservation Tax Credits by Fiscal Year**

Fiscal Year	Total Amount of Claims
2000-01	\$17,358,000
2001-02	16,800,000
2002-03	16,507,000
2003-04	14,472,700
2004-05	13,460,000
2005-06	12,522,000
2006-07	12,555,800
2007-08	11,984,100
2008-09	12,173,000
2009-10	14,568,500

Source: Wisconsin Annual Fiscal Report

Table 5 shows the number of claims and total and average credits for non-corporate, pre-2010 credit claims by tax year since 2000. For 2009, credits were provided on nearly four million acres.

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## Farmland Tax Relief Credit

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### Program Description

Under 2009 Act 28, the farmland tax relief credit is ended for new claims after tax year 2009. The base level funding amount that had been provided for the farmland tax relief credit is included in the

**Table 5: Pre-2010 Farmland Preservation Program Participation by Tax Year\***

Tax Year	Number of Claims	Total Amount of Credits	Average Tax Credit
2000	20,918	\$16,880,800	\$807
2001	20,490	16,351,000	798
2002	20,128	16,122,500	801
2003	19,477	14,042,900	721
2004	19,184	13,141,000	685
2005	18,773	12,240,000	652
2006	18,620	11,546,700	620
2007	17,998	11,388,700	633
2008	16,949	11,635,800	687
2009	16,414	14,123,100	860

\* Excludes corporate claims.

Source: DOR aggregate tax data

funding provided the per-acre farmland preservation credit created under Act 28.

The farmland tax relief credit reimbursement rate on the first \$10,000 in property taxes was determined annually by DOR at a rate estimated to distribute the funds available for credit payments. Annual credit payments were to total \$15 million plus an amount (which could be positive or negative) equal to the amount estimated to be expended in the previous year minus the actual expenditures for the credit in the previous year. For tax year 2009, the last year of the credit, the reimbursement rate was set at 18%, up to the maximum allowable credit of \$1,500, which was reached with property taxes of \$8,333.

The credit was not affected by the owner's income. Taxes levied on improvements, such as buildings, were not eligible for the credit. Also, eligible property taxes could not include the part of the gross tax levied that was paid by the state's school levy or first dollar tax credits. The credit was able to be claimed against individual and corporate income taxes. If the credit exceeded income taxes due, a refund was provided.

A claimant was required to own at least 35

acres of state farmland that produced gross farm profits of at least \$6,000 in the preceding year or at least \$18,000 in the three preceding years, unless at least 35 acres was enrolled in the federal conservation reserve program. A claimant also had to be an owner of farmland who was domiciled in Wisconsin for the full year.

In addition to individual owners, the credit was available to: (a) corporations incorporated in this state; (b) partnerships or associations of two or more persons having a joint interest in the land; (c) the personal representative of an estate of a person who was a Wisconsin resident at the time of death; (d) the trustee of a trust, unless the trust was created by a nonresident, received its farmland from a nonresident, or had a beneficial interest in the trust retained by a nonresident; (e) the buyer, if the land was sold under a land contract; and (f) the guardian for a ward who owns the land.

### Program Participation and Expenditures

The farmland tax relief credit was funded from a sum-sufficient appropriation from the segregated lottery fund, except for 1999-00, when the credit was funded from general fund revenues. The total amount of credits claimed each fiscal year since 2000-01 is listed in Table 6.

Table 7 shows the number of claims and the total and average tax credits for noncorporate claims, by tax year, since 2000. In general, the number of farmland tax relief credit claimants steadily decreased over the ten-year period. Conversely, the total amount of credits and average credit fluctuated somewhat, due primarily to annual changes in the targeted funding level for the credit.

**Table 6: Farmland Tax Relief Credit by Fiscal Year**

Fiscal Year	Total Amount of Credits
2000-01	\$11,748,000
2001-02	13,744,600
2002-03	23,516,900
2003-04	13,252,400
2004-05	11,694,600
2005-06	13,469,000
2006-07	15,391,000
2007-08	16,900,000
2008-09	14,570,800
2009-10	14,330,700

Source: Wisconsin Annual Fiscal Report

**Table 7: Farmland Tax Relief Credit Program Participation by Tax Year\***

Tax Year	Number of Claims	Total Amount of Credits	Average Tax Credit
2000	55,119	\$10,937,285	\$198
2001	54,404	13,005,971	239
2002	53,736	22,835,432	425
2003	54,757	12,544,355	229
2004	52,177	10,921,831	209
2005	51,186	12,625,373	247
2006	50,893	14,575,473	286
2007	50,931	15,730,007	309
2008	50,409	13,877,191	275
2009	49,254	13,672,882	278

\*Excludes corporate claims.

Source: DOR aggregate tax data



## APPENDIX 1

### County Population Figures and Plan Status (Alphabetical)

County	Plan Certified/ Recertified	Land Area (sq. miles)	Population Census 2000	Population Estimate 1/1/2007	Density Change 2007-2000	Plan Expiration	2010-11 Planning Grants
Adams	1981/2004	647.74	19,920	21,645	2.66	2014*	\$0
Ashland	1982	1,043.82	16,866	16,879	0.01	2015	0
Barron	1979	862.84	44,963	47,551	3.00	2013	0
Bayfield	1982	1,476.25	15,013	15,990	0.66	2015	0
Brown	1985	528.68	226,658	244,764	34.25	2011	30,000
Buffalo	1980	684.47	13,804	14,183	0.55	2015	0
Burnett	1982	821.52	15,674	16,749	1.31	2014	0
Calumet	1980/2010	319.84	40,631	46,031	16.88	2019	0
Chippewa	1984	1,010.43	55,195	61,604	6.34	2012	0
Clark	1986	1,215.64	33,557	34,479	0.76	2015	0
Columbia	1978	773.79	52,468	55,636	4.09	2012	0
Crawford	1981	572.69	17,243	17,553	0.54	2015	0
Dane	1981	1,201.89	426,526	468,514	34.93	2011	30,000
Dodge	1980/2002	882.28	85,897	89,225	3.77	2010*+	17,000
Door	1982	482.72	27,961	30,043	4.31	2012	0
Douglas	1982	1,309.13	43,287	44,096	0.62	2015	0
Dunn	1981	852.03	39,858	43,118	3.83	2012	0
Eau Claire	1983	637.64	93,142	98,000	7.62	2012	0
Florence	1983	488.03	5,088	5,295	0.42	2015	0
Fond du Lac	1981	722.91	97,296	101,174	5.36	2012	0
Forest	1983	1,014.05	10,024	10,329	0.30	2015	0
Grant	1982	1,147.85	49,597	51,037	1.25	2014	0
Green	1981	583.99	33,647	36,262	4.48	2012	0
Green Lake	1983	354.28	19,105	19,446	0.96	2014	0
Iowa	1980	762.67	22,780	24,130	1.77	2013	0
Iron	1983	757.23	6,861	7,002	0.19	2015	0
Jackson	1986	987.32	19,100	20,080	0.99	2014	0
Jefferson	1978/2000	557.01	75,767	80,411	8.34	2011*++	30,000
Juneau	1979	767.61	24,316	27,177	3.73	2013	0
Kenosha	1982	272.83	149,577	161,370	43.23	2011	30,000
Kewaunee	1982	342.64	20,187	21,198	2.95	2017*	0
La Crosse	1980	452.74	107,120	111,791	10.32	2011	30,000
Lafayette	1980	633.57	16,137	16,317	0.28	2015	0
Langlade	1982	872.67	20,740	21,517	0.89	2014	0
Lincoln	1983	883.30	29,641	30,562	1.04	2014	0

County	Plan Certified/ Recertified	Land Area (sq. miles)	Population Census 2000	Population Estimate 1/1/2007	Density Change 2007-2000	Plan Expiration	2010-11 Planning Grants
Manitowoc	1981/2005	591.53	82,893	84,603	2.89	2015*	\$0
Marathon	1982	1,544.96	125,834	134,028	5.30	2012	0
Marinette	1981	1,401.76	43,384	44,646	0.90	2014	0
Marquette	1982	455.49	14,555	15,319	1.68	2014	0
Menominee	---	357.96	4,562	4,606	0.12	2015	0
Milwaukee	---	241.56	940,164	937,324	-11.76	2015	0
Monroe	1982	900.77	40,896	43,838	3.27	2013	0
Oconto	1985	997.97	35,652	38,958	3.31	2013	0
Oneida	1983	1,124.50	36,776	38,600	1.62	2014	0
Outagamie	1982	640.34	161,091	173,773	19.81	2011	30,000
Ozaukee	1983	231.95	82,317	86,697	18.88	2011	30,000
Pepin	1979	232.28	7,213	7,714	2.16	2013	0
Pierce	1982	576.49	36,804	40,235	5.95	2012	0
Polk	1979	917.27	41,319	45,611	4.68	2012	0
Portage	1985	806.31	67,182	69,959	3.44	2013	0
Price	1983	1,252.56	15,822	16,069	0.20	2015	0
Racine	1982	333.10	188,831	195,113	18.86	2011	30,000
Richland	1981	586.20	17,924	18,208	0.48	2015	0
Rock	1979/2005	720.47	152,307	159,530	10.03	2015*	30,000
Rusk	1983	913.13	15,347	15,627	0.31	2015	0
Saint Croix	1980	721.82	63,155	79,020	21.98	2011	30,000
Sauk	1979/2006	837.63	55,225	60,673	6.50	2016 <sup>a</sup>	0
Sawyer	1982	1,256.42	16,196	17,542	1.07	2014	0
Shawano	1982	892.51	40,664	42,413	1.96	2013	0
Sheboygan	1979/2005	513.63	112,656	117,045	8.55	2015*	0
Taylor	1981	974.86	19,680	20,049	0.38	2015	0
Trempealeau	1980	734.08	27,010	28,119	1.51	2014	0
Vernon	1981	794.87	28,056	29,530	1.85	2013	0
Vilas	1984	873.72	21,033	22,545	1.73	2014	0
Walworth	1978	555.31	92,013	100,672	15.59	2011	30,000
Washburn	1982	809.68	16,036	17,403	1.69	2014	0
Washington	1981	430.82	117,496	129,316	27.44	2011	30,000
Waukesha	1984	555.58	360,767	381,651	37.59	2011	0
Waupaca	1981	751.09	51,825	53,773	2.59	2013	0
Waushara	1981	626.03	23,066	25,215	3.43	2013	0
Winnebago	1982	438.58	156,763	164,703	18.10	2011	30,000
Wood	1984	792.78	75,555	76,839	1.62	2014	0

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

+ Date shown reflects an extension of one year (+) or two years (++) granted by DATCP.

<sup>a</sup> Sauk County also contains certain towns with certification expiration dates of 2012.

## APPENDIX 2

### County Population Figures and 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 2007-2000	Plan Expiration	2010-11 Planning Grants
Dodge	1980/2002	882.28	85,897	89,225	3.77	2010*+	\$17,000
Jefferson	1978/2000	557.01	75,767	80,411	8.34	2011*++	30,000
Brown	1985	528.68	226,658	244,764	34.25	2011	30,000
Dane	1981	1,201.89	426,526	468,514	34.93	2011	30,000
Kenosha	1982	272.83	149,577	161,370	43.23	2011	30,000
La Crosse	1980	452.74	107,120	111,791	10.32	2011	30,000
Outagamie	1982	640.34	161,091	173,773	19.81	2011	30,000
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Columbia	1978	773.79	52,468	55,636	4.09	2012	0
Door	1982	482.72	27,961	30,043	4.31	2012	0
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Forest	1983	1,014.05	10,024	10,329	0.30	2015	0
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Lafayette	1980	633.57	16,137	16,317	0.28	2015	0
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Rusk	1983	913.13	15,347	15,627	0.31	2015	0
Sheboygan	1979/2005	513.63	112,656	117,045	8.55	2015*	0
Sauk	1979/2006	837.63	55,225	60,673	6.50	2016 <sup>a</sup>	0
Taylor	1981	974.86	19,680	20,049	0.38	2015	0
Kewaunee	1982	342.64	20,187	21,198	2.95	2017*	0
Calumet	1980/2010	319.84	40,631	46,031	16.88	2019	0

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

+ Date shown reflects an extension of one year (+) or two years (++) granted by DATCP.

<sup>a</sup> Sauk County also contains certain towns with certification expiration dates of 2012.



## APPENDIX 3

### 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, Stanley, Sumner, and Turtle Lake.

#### BROWN (2012)

Villages of Bellevue, Howard, and Wrightstown.

Towns of Eaton, Glenmore, Green Bay, Hobart, Holland, Humboldt, Lawrence, Ledgeview, Morrison, New Denmark, Pittsfield, Rockland, Scott, Suamico and Wrightstown.

#### BURNETT (2015)

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

#### CALUMET (2012)

Towns of Brillion, Charlestown and Woodville.

#### CLARK (2016)

Town of Colby.

#### COLUMBIA (2013)

Village of Doylestown.

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

#### CRAWFORD (2016)

Village of Soldiers Grove.

Towns of Haney and Utica.

#### DANE (2011++)

Cities of Fitchburg and Sun Prairie. (Extraterritorial)

Village of Dane.

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 (2013)

Towns of Burnett, Calamus, Elba, Herman, LeRoy, Lomira, Oak Grove, Portland (2011++), Shields, Theresa (2011++), Trenton and Williamstown.

#### DOOR (2013)

Town of Clay Banks.

#### DUNN (2013)

Towns of Grant, Lucas and Wilson.

#### EAU CLAIRE (2013)

Village of Fall Creek.

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

#### FOND DU LAC (2013)

City of Fond du Lac.

Villages of St. Cloud and Oakfield.

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

#### GRANT (2014)

City of Platteville. (Extraterritorial)

Towns of Clifton, Ellenboro (2018), Fennimore, Hickory Grove, Jamestown, Liberty, Lima (2011++), Millville, Mount Hope, Mount Ida, Paris, Platteville, Potosi, South Lancaster, Watterstown (2018) and Wingville.

#### GREEN LAKE (2015)

City of Berlin (2016). (Extraterritorial)

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

#### IOWA (2014)

City of Mineral Point. (Extraterritorial)

Village of Highland.

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

#### JEFFERSON (2011++)

City of Lake Mills.

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

#### KENOSHA (2012)

Village of Pleasant Prairie.

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

#### KEWAUNEE (2014)

Village of Luxemburg.

Towns of Ahnapee, Carlton, Casco (2012++), Franklin (2017), Lincoln (2018), Luxemburg, Montpelier, Pierce (2019), Red River and West Kewaunee.

#### LA CROSSE (2012)

City of La Crosse.

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

#### LAFAYETTE (2011++)

Towns of Argyle, Belmont (2018), Elk Grove (2016), Fayette, Gratiot, Kendall, Lamont, Monticello, Shullsburg (2018), Wayne and Wiota.

#### LANGLADE (2015)

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

#### MANITOWOC (2011)

Towns of Cato, Centerville (2014), Cooperstown, Eaton, Franklin (2016), Gibson, Liberty, Manitowoc, Manitowoc Rapids, Maple Grove, Meeme, Mishicot, Newton (2014), Rockland, Two Creeks and Two Rivers.

#### MARATHON (2013)

Towns of Brighton, Day, Eau Pleine, Hull, Marathon and McMillan, Mosinee and Stettin.

#### MARQUETTE (2015)

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

#### MILWAUKEE (2016)

City of Franklin.

#### OUTAGAMIE (2012)

City of Seymour. (Extraterritorial)

Towns of Black Creek, Cicero, Deer Creek, Hortonia (2011++), Kaukauna, Maple Creek, and Seymour.

#### OZAUKEE (2012)

Towns of Belgium, Cedarburg, Fredonia, Grafton, Port Washington and Saukville.

#### PIERCE (2013)

City of River Falls. (Extraterritorial)

Town of River Falls.

#### POLK (2013)

Town of McKinley.

#### PORTAGE (2014)

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

**RACINE (2012)**

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)**

Cities of Edgerton, Evansville and Milton. (Extraterritorial)

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

**SAINT CROIX (2012)**

City of River Falls. (Extraterritorial)

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

**SAUK (2016)**

Villages of Prairie Du Sac (2013), Sauk City (2013) and Spring Green (2013). (Extraterritorial)

Towns of Franklin, Freedom, Honey Creek, Ironton (2013), Prairie Du Sac, Reedsburg, Sumpter, Troy and Westfield.

**SHAWANO (2014)**

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

**SHEBOYGAN (2013)**

Villages of Cedar Grove and Glenbeulah.

**Towns of Greenbush (2018), Herman, Holland (2016), Lima, Lyndon (2017), Mosel, Plymouth, Rhine, Russell (2017), Scott, Sheboygan Falls (2018), Sherman, and Wilson.**

**VERNON (2014)**

**Towns of Coon and Harmony.**

**WALWORTH (2012)**

City of Elkhorn. (Extraterritorial)

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

**WASHINGTON (2012)**

Village of Germantown.

**Towns of Barton, Hartford (2012++), Kewaskum (2012++), Richfield and Trenton.**

**WAUKESHA (2012)**

City of Muskego.

Towns of **Eagle, Mukwonago**, Oconomowoc, Ottawa and **Pewaukee.**

**WINNEBAGO (2012)**

Towns of Clayton, Neenah, Nekimi, **Utica, Vinland, Winchester** and **Wolf River.**

**Total Agricultural Zoning Occurrences**

Towns, County Zoning	273
Towns, Self-Administered Zoning	120
Village-Administered Zoning	18
City-Administered Zoning	<u>19</u>
Total	430

++ Date shown reflects an extension of two years granted by DATCP.

Note: 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 town, village, or city not listed would not have adopted a farmland preservation zoning ordinance.**

**Underlined municipalities indicate towns added in 2010.**

## APPENDIX 4

### Active Farmland Preservation Agreements - December, 2010

County	Agreements	Total Acres	County	Agreements	Total Acres
Adams	17	2,572	Marquette	10	1,537
Ashland	5	1,186	Monroe	129	17,659
Barron	96	13,072	Oconto	36	5,114
Bayfield	43	5,312	Oneida	2	1,260
Buffalo	220	41,231	Outagamie	11	1,469
Burnett	17	2,453	Ozaukee	3	244
Calumet	71	5,768	Pepin	80	12,249
Chippewa	143	14,797	Pierce	96	12,707
Clark	67	7,933	Polk	39	7,078
Columbia	52	5,792	Portage	19	3,560
Crawford	68	13,836	Price	37	4,662
Dane	12	1,908	Racine	1	64
Dodge	161	18,612	Richland	95	15,741
Door	32	3,150	Rusk	83	12,470
Douglas	15	2,525	Saint Croix	105	14,064
Dunn	91	13,112	Sauk	164	24,202
Eau Claire	6	336	Sawyer	2	755
Florence	5	757	Shawano	163	18,296
Grant	194	39,572	Sheboygan	4	180
Green	134	20,647	Taylor	40	5,926
Green Lake	31	2,154	Trempealeau	426	51,238
Iron	1	338	Vernon	247	30,837
Jackson	78	10,777	Vilas	1	215
Juneau	61	10,195	Washburn	19	3,274
Kewaunee	5	735	Washington	20	1,571
Lafayette	87	12,211	Waukesha	2	193
Langlade	26	3,383	Waupaca	154	13,591
Lincoln	13	1,336	Waushara	37	5,894
Manitowoc	1	141	Winnebago	2	645
Marathon	229	25,402	Wood	37	4,765
Marinette	20	2,019			
			Total	4,065	554,722

Note: The appendix does not show the 11 counties that contain no farmland preservation agreements. Counties containing no farmland preservation agreements include Brown, Fond du Lac, Forest, Iowa, Jefferson, Kenosha, La Crosse, Menominee, Milwaukee, Rock and Walworth.

## APPENDIX 5

### 2011 Agricultural Enterprise Areas

Agricultural enterprise areas approved in 2010 are listed below. Maps showing the boundaries of the areas were published in November, 2010, as an appendix to administrative rule ATCP 53. The rule took effect January 1, 2011.

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 agreements and claim at least the minimum tax credit of \$5 per acre beginning with the 2011 tax year, if they were not already under such agreements. In addition, for towns identified as having farmland preservation zoning, farmland preservation zoning districts do not necessarily constitute all the town's acreage designated as an enterprise area. However, owners of lands that are both located in the enterprise areas and in farmland preservation zoning districts may be eligible for the maximum tax credit of \$10 per acre, provided the landowner entered into a farmland preservation agreement.

AEA Name	County	Total Acreage	Petitioning Municipalities	Under F.P. Zoning
Antigo Flats	Langlade	62,278	Town of Ackley	Yes
			Town of Antigo	Yes
			Town of Neva	Yes
			Town of Peck	Yes
			Town of Polar	Yes
			Town of Price	No
			Town of Rolling	Yes
Ashippun/Oconomowoc	Dodge, Waukesha	30,159	Town of Ashippun (Dodge)	No
			Town of Oconomowoc (Waukesha)	Yes
Bayfield	Bayfield	2,986	Town of Bayfield	No
Bloomer Area	Chippewa	4,380	Town of Bloomer	No
Cadott Area Cooperative	Chippewa	1,640	Town of Goetz	No
			Town of Delmar	No
La Prairie	Rock	21,093	Town of La Prairie	Yes
			Town of Turtle	Yes
Maple Grove	Shawano	21,867	Town of Maple Grove	Yes
Rush River Legacy	St. Croix	8,604	Town of Rush River	Yes
Scuppernong	Jefferson	14,015	Town of Cold Spring	Yes
			Town of Hebron	Yes
			Town of Palmyra	Yes
			Town of Sullivan	Yes
Squaw Lake	Polk	9,718	Town of Alden	No
			Town of Farmington	No
			Town of Somerset	Yes
			Town of Star Prairie	Yes
Town of Dunn	Dane	10,339	Town of Dunn	Yes
Windsor	Dane	<u>11,167</u>	Town of Windsor	Yes
	Total Acres	198,246		

## APPENDIX 6

### 2010 Preliminary Approved Agricultural Conservation Easements Purchases

County/Town	Operation Type	Acres	Cooperating Entity/Entities	Preliminary Appraisal Value	Estimated DATCP Purchase Share	Other Designations	
						AEA	F.P. Zoning
Columbia/Fountain Prairie	Beef	277	Natural Heritage Land Trust	\$470,900	\$235,500*		X
Dane/Black Earth	Dairy	176	Natural Heritage Land Trust	558,000	279,000*		X
Dane/Dunn	Tobacco, corn, soy	84	Town of Dunn	209,500	104,700*	X	X
Dane/Windsor	Heifer	137	Town of Windsor, Natural Heritage Land Trust	670,000	335,000*	X	X
Dodge/Ashippun	Dairy, hay, seed	233	Tall Pines Conservancy	N/A	N/A	X	
Iowa/Brigham	Dairy	460	Driftless Area Land Conservancy	824,000	412,000*		X
Iowa/Brigham	Dairy	438	Driftless Area Land Conservancy	855,000	427,500		X
Jefferson/Palmyra	Beef, poultry	254	Drumlin Area Land Trust	457,200	228,600*	X	X
Jefferson/Oakland	Dairy	220	Jefferson County, Natural Heritage Land Trust	228,000	114,000*		X
Jefferson/Aztalan	Crop	121	Jefferson County, Natural Heritage Land Trust	268,000	134,000*		X
Waupaca/Bear Creek	Dairy	564	Waupaca County	N/A	N/A		
Waupaca/Bear Creek	Dairy, grain	347	Waupaca County	N/A	N/A		
Waupaca/Farmington	Vegetables, berries	113	Waupaca County	N/A	N/A		
Waupaca/Lind	Dairy	1,127	Waupaca County	N/A	N/A		
Waupaca/Lind	Dairy	308	Waupaca County	N/A	N/A		
Waupaca/Scandinavia	Dairy	<u>920</u>	Waupaca County	<u>N/A</u>	<u>N/A</u>		
Totals		5,779		\$4,540,600	\$2,270,300		

\* Easement is expected to use PACE and FRPP funding.

## APPENDIX 7

### 2011 Purchase of Agricultural Conservation Easements (PACE) Program

#### Criteria to Rank Proposed Easements for PACE Grants

<b>Point Summary:</b>	<b>Maximum Points Per Section</b>
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>
<b>Maximum number of points from Section 4:</b>	<b>20</b>

**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>
<b>Maximum number of points from Section 5:</b>	<b>15</b>

**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
<b>Maximum number of points from Section 6:</b>		<b>10</b>



**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 8

### 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																																													
<b><u>Step 1: Calculate "Income Factor"</u></b>																																														
	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 10%;"></th> <th style="width: 10%; text-align: center;"><u>Income</u></th> <th style="width: 10%;"></th> <th style="width: 10%; text-align: center;"><u>Factor</u></th> </tr> </thead> <tbody> <tr> <td>0% of 1st \$5,000 of household income</td> <td style="text-align: right;">0%</td> <td style="text-align: right;">x \$5,000</td> <td style="text-align: center;">=</td> <td style="text-align: right;">\$0</td> </tr> <tr> <td>7% of 2nd \$5,000 of household income</td> <td style="text-align: right;">7</td> <td style="text-align: right;">x 5,000</td> <td style="text-align: center;">=</td> <td style="text-align: right;">350</td> </tr> <tr> <td>9% of 3rd \$5,000 of household income</td> <td style="text-align: right;">9</td> <td style="text-align: right;">x 5,000</td> <td style="text-align: center;">=</td> <td style="text-align: right;">450</td> </tr> <tr> <td>11% of 4th \$5,000 of household income</td> <td style="text-align: right;">11</td> <td style="text-align: right;">x 5,000</td> <td style="text-align: center;">=</td> <td style="text-align: right;">550</td> </tr> <tr> <td>17% of 5th \$5,000 of household income</td> <td style="text-align: right;">17</td> <td style="text-align: right;">x <u>3,000</u></td> <td style="text-align: center;">=</td> <td style="text-align: right;"><u>510</u></td> </tr> <tr> <td>27% of 6th \$5,000 of household income</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>37% of household income over \$30,000</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td style="text-align: right;">TOTAL</td> <td style="text-align: right;">\$23,000</td> <td></td> <td style="text-align: right;">\$1,860</td> </tr> </tbody> </table>			<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>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																																										
<b><u>Step 2: Determine "Excessive Property Tax"</u></b>																																														
Eligible Property Tax - Income Factor = Excessive Property Tax	\$4,700 - \$1,860 = \$2,840																																													
<b><u>Step 3: Determine "Potential Credit"</u></b>																																														
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																																													
<b><u>Step 4: Determine "Actual Credit"</u></b>																																														
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.	80% x \$2,388 = \$1,910																																													
80% of the potential credit for farmland covered by a preservation agreement and a county plan.																																														
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																																													
<b>Actual Credit</b>	<b>= \$1,910</b>																																													