



Working Lands and Farmland Preservation Tax Credits

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TABLE OF CONTENTS

Introduction.....	1
Chapter 1: Working Lands Initiative.....	2
Farmland Preservation Plans.....	2
Farmland Preservation Zoning.....	5
Farmland Preservation Agreements.....	12
Agricultural Enterprise Areas.....	14
Soil and Water Conservation.....	15
Purchase of Agricultural Conservation Easements (PACE).....	17
DATCP Administration and the Working Lands Fund.....	23
Chapter 2: Farmland Preservation Tax Credits.....	27
Pre-2010 Farmland Preservation Tax Credit.....	27
Per-Acre Farmland Preservation Tax Credit.....	30
Appendices	
Appendix 1: County Population Figures and Farmland Preservation Plan Status.....	33
Appendix 2: County Population Figures and Farmland Preservation Plan Status (by Plan Certification Expiration Date).....	35
Appendix 3: Farmland Preservation Zoning Ordinances and Expiration Dates by County and Municipality ..	37
Appendix 4: Farmland Preservation Agreements.....	39
Appendix 5: Agricultural Enterprise Areas.....	41
Appendix 6: Agricultural Conservation Easements.....	43
Appendix 7: 2011 Purchase of Agricultural Conservation Easements (PACE) Selection.....	44
Appendix 8: Example Calculation of a Pre-2010 Farmland Preservation Tax Credit for an Agreement Holder.....	48

Working Lands and Farmland Preservation Tax Credits

Introduction

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

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

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

Introduction

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

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

Farmland Preservation Plans

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

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

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

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

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

their comprehensive plans. The two plans are to be consistent.

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

Planning Grants

DATCP is authorized to provide planning grants to counties for up to 50% of the county's cost of preparing a farmland preservation plan. Grants may only be disbursed on a reimbursement basis. Further, the statutes specify that counties with existing preservation plans scheduled to expire soonest take priority for grant awards. 2011 Act 32 provided \$374,200 general purpose revenue (GPR) annually for planning grants in the 2011-13 biennium. However, the full appropriated amount was lapsed to the general fund in 2011-12 as part of lapse requirements in Act 32. 2009 Act 28 also created an appropriation from the segregated working lands fund, which is discussed later in greater detail, for farmland preservation planning grants; this appropriation has not received any expenditure authority since its creation, however.

DATCP to date has awarded \$747,100 in farmland preservation planning grants. This includes \$407,000 in the 2010 grant cycle, supported by \$415,800 GPR available in 2010-11, and \$340,100 in the 2011 grant cycle, expected to be supported from amounts available for 2012-13. Of the 2010 awards, \$130,300 was expended in 2010-11, and \$110,300 was expended in 2011-12. Remaining amounts of \$175,200 were encumbered as of June 30, 2012, for later disbursement to 2010 awardees as they incur eligible expenses and submit claims. Grant awards

Table 1: Farmland Preservation Planning Grants

County	Year	Award	Disbursed	Remaining
Brown	2010	\$30,000	\$15,000	\$15,000
Chippewa	2011	30,000	0	30,000
Columbia	2011	30,000	0	30,000
Dane	2010	30,000	11,877	18,123
Dodge	2010	17,000	17,000	0
Door	2011	10,100	0	10,100
Dunn	2011	30,000	0	30,000
Eau Claire	2011	30,000	0	30,000
Fond du Lac	2011	30,000	0	30,000
Green	2011	30,000	0	30,000
Jefferson	2010	30,000	30,000	0
Kenosha	2010	30,000	4,091	25,909
La Crosse	2010	30,000	23,698	6,302
Marathon	2011	30,000	0	30,000
Outagamie	2010	30,000	20,467	9,533
Ozaukee	2010	30,000	15,000	15,000
Pierce	2011	30,000	0	30,000
Polk	2011	30,000	0	30,000
Racine	2010	30,000	2,501	27,499
Rock	2010	30,000	15,000	15,000
St. Croix	2010	30,000	10,942	19,058
Sauk	2011	30,000	0	30,000
Sheboygan	2011	30,000	0	30,000
Walworth	2010	30,000	15,000	15,000
Washington	2010	30,000	30,000	0
Winnebago	2010	<u>30,000</u>	<u>30,000</u>	<u>0</u>
Total		\$747,100	\$240,576	\$506,524

and expenditures are shown in Table 1. The Department expects to fulfill grants awarded in 2011 with the \$374,200 GPR available in 2012-13. No funds may be encumbered under the appropriation after June 30, 2016, as all farmland preservation plans are to be adopted by January, 2016.

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 2007 population estimates by the Department of Administration (DOA). Expiration dates based on population increases would occur as shown in Table 2. Appendices 1 and 2 show the expiration dates of all county farmland preservation plans, as well as the certification and recertification

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

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

dates of each county's most recent farmland preservation plan. DATCP is to set expiration dates for new and revised plans adopted following the enactment of 2009 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 November 1, 2012, 20 counties had used this authority with respect to farmland preservation plans. These counties are listed in Table 3. Although the statutes limit extensions to two years, DATCP in one instance (Racine County) has granted an extension totaling three years, as shown in Table 3.

Table 3: Extensions of County Farmland Preservation Plans

County	Original Expiration	Date under Extension
Dodge	2009	2010
Jefferson	2009	2011
Brown	2011	2012
Dane	2011	2012
Kenosha	2011	2013
La Crosse	2011	2012
Ozaukee	2011	2012
Racine	2011	2014
St. Croix	2011	2012
Walworth	2011	2013
Washington	2011	2012
Winnebago	2011	2012
Chippewa	2012	2013
Columbia	2012	2013
Door	2012	2014
Dunn	2012	2013
Eau Claire	2012	2014
Marathon	2012	2013
Pierce	2012	2013
Polk	2012	2013

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

Additionally, six municipalities have received extensions of a plan certification: (a) the City of Fitchburg (Dane County); (b) the Town of Oregon (Dane County); (c) the Town of Taycheedah

(Fond du Lac County); (d) the Town of Hortonville (Outagamie County); (e) the Town of Hartford (Washington County); and (f) the Town of Kewaskum (Washington County). Although towns, villages and cities typically do not engage in farmland preservation planning, some county plans have been amended with plans specific to such a smaller jurisdiction. Such amendments are intended to designate certain areas for agricultural preservation and allow them to participate in farmland preservation programs, including tax credits. DATCP reports it is also for this reason that certain counties, including Sauk and Sheboygan, expect to apply for certification of new county farmland preservation plans ahead of their scheduled dates shown in Appendices 1 and 2 to eliminate discrepancies between town-specific plans and the larger county plan.

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.

Farmland Preservation Zoning

The statutes authorize cities, villages, towns or counties to adopt farmland preservation zoning ordinances. These ordinances generally limit land uses within designated farmland preservation zoning districts. DATCP estimates approximately 6.5 million acres in Wisconsin, or about 19% of the state's 34.8 million land acres and about 43% of the 15.2 million acres estimated to be in farmland, were under a certified farmland preservation zoning ordinance as of July 1, 2012.

Counties and municipalities are not required to enact farmland preservation zoning ordinances, nor were they required to do so prior to 2009 Act 28. As such, the statutory provisions for farmland preservation zoning should not be construed as statewide standards for all agricultural land or as limiting municipalities' ability to engage in any other type of zoning. Rather, the requirements for certified farmland preservation zoning ordinances are minimum standards that zoning ordinances must meet for certification, which allows owners of lands in zoning districts to be eligible for farmland preservation tax credits.

Like a farmland preservation plan, a farmland preservation zoning ordinance must clearly identify and map zoning districts in which land uses are limited to those specified in the ordinance. The ordinance also must include any jurisdictional, organizational and enforcement provisions necessary to administer the ordinance. 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. Since Act 28, this congruity requirement has disqualified some otherwise agricultural-zoned acreage from being eligible for tax credits, due to certain jurisdictions that contained no lands identified for agricultural preservation in a revised farmland preservation plan. Affected jurisdictions include the City of Muskego and the Towns of Mukwonago and Pewaukee in Waukesha County.

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 certified farmland preservation zoning ordi-

nances.

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 could create and administer their own zoning ordinances. Appendix 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 4, 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

Table 4: Allowable Uses in Certified Farmland Preservation Zoning Districts

Use/Description

Agricultural

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

Accessory

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

Agriculture-Related

- An agricultural equipment dealership.
- A facility providing agricultural supplies.
- A facility for storing or processing agricultural products.
- A facility for processing agricultural wastes.
- Other accessory uses identified by DATCP administrative rule.

Nonfarm Residential Uses

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

Other Uses

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

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

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 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; in other words, there must be twenty acres remaining in the base farm tract for every acre in the nonfarm residential parcel. 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 was 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. The Department in May, 2012, published a scope statement to begin promulgation of a new administrative rule chapter pertaining to working lands programs. DATCP expects part of the rule proposal to clarify definitions for agricultural, agriculture-related and accessory uses, which may affect the application of allowed and conditional uses. Draft rule language was expected to be submitted to the Board of Agriculture, Trade and Consumer Protection by early 2013.

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 ordinance's certification expires either on a date specifically declared in a DATCP certification order, or, if not so specified, that date determined by the political subdivision's population increase per square mile between the 2000 U.S. Census and the 2007 population estimates by DOA. This is the same schedule used for population-based expiration dates of farmland preservation plans, except certifications would expire one year later so ordinances are consistent with plans. Table 5 lists the statutory expiration dates. Appendix 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.

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

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

The DATCP Secretary has the same authority to extend certification of a farmland preservation zoning ordinance as exists for farmland preservation plans. As of November, 2012, DATCP had granted extensions to the jurisdictions shown in Table 6. An extension allows eligible landowners to continue claiming farmland preservation tax credits for the duration of the extension. Although the statutes limit extensions of ordinance certifications to two years, DATCP has granted two extensions of two years each, or four years total, to the towns of Hortononia (Outagamie County) and Hartford (Washington County).

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

Conversion Fees

Beginning with the enactment of 2011 Act 32, there is no conversion fee to rezone lands from farmland preservation zoning districts. The fee, created under 2009 Act 28, was intended: (a) as a disincentive to convert land that had previously been designated for agricultural purposes, and that may have previously claimed farmland preservation tax credits; and (b) as a means of changing farmland preservation zoning districts to account for nonagricultural development, but without submitting revised farmland preservation zoning districts for DATCP's recertification. Opponents argued the fee created costs that placed certain landowners at a disadvantage in securing future nonagricultural development, and that other policy instruments in the farmland preservation programs were more critical to preserving lands for long-term agricultural uses than the conversion fee.

The fee applied beginning January 1, 2010, but did not apply to areas removed from farmland

Table 6: Extensions of Farmland Preservation Ordinances

Municipality	Original Expiration	Date under Extension
Dane County (Ord. Text Only)	2009	2011
Town of Portland (Dodge)	2009	2011
Town of Theresa (Dodge)	2009	2011
Town of Lima (Grant)	2009	2011
Jefferson County	2009	2011
Lafayette County (Ord. Text Only)	2009	2011
Town of Hortononia (Outagamie)	2009	2011
Town of Casco (Kewaunee)	2010	2012
Town of Hartford (Washington)	2010	2012
Town of Kewaskum (Washington)	2010	2012
Manitowoc County	2011	2012
Town of Hortononia (Outagamie)	2011	2013
Village of Bellevue (Brown)	2012	2014
Village of Hobart (Brown)	2012	2013
Village of Howard (Brown)	2012	2014
Village of Suamico (Brown)	2012	2013
Town of Eaton (Brown)	2012	2014
Town of Glenmore (Brown)	2012	2014
Town of Holland (Brown)	2012	2014
Town of Humboldt (Brown)	2012	2013
Town of Ledgeview (Brown)	2012	2014
Town of New Denmark (Brown)	2012	2014
Town of Pittsfield (Brown)	2012	2014
Town of Rockland (Brown)	2012	2014
Town of Scott (Brown)	2012	2014
Town of Wrightstown (Brown)	2012	2014
Dane County (Ord. Map Only)	2012	2014
Kenosha County	2012	2014
Village of Bristol (Kenosha)	2012	2014
Town of Kaukauna (Outagamie)	2012	2014
Town of Belgium (Ozaukee)	2012	2014
Town of Cedarburg (Ozaukee)	2012	2014
Town of Fredonia (Ozaukee)	2012	2014
Racine County	2012	2014
City of Edgerton (Rock)	2012	2014
City of Milton (Rock)	2012	2014
Town of Avon (Rock)	2012	2013
Town of Beloit (Rock)	2012	2014
Town of Bradford (Rock)	2012	2014
Town of Center (Rock)	2012	2014
Town of Fulton (Rock)	2012	2014
Town of Janesville (Rock)	2012	2014
Town of Johnstown (Rock)	2012	2014
Town of Lima (Rock)	2012	2014
Town of Milton (Rock)	2012	2014
Town of Newark (Rock)	2012	2014
Town of Plymouth (Rock)	2012	2014
Town of Rock (Rock)	2012	2014
Town of Spring Valley (Rock)	2012	2014
Town of Turtle (Rock)	2012	2014
Town of Union (Rock)	2012	2014
St. Croix County	2012	2014
Walworth County	2012	2014
Town of Hartford (Washington)	2012	2014
Waukesha County	2012	2014
Town of Eagle (Waukesha)	2012	2014
Town of Vinland (Winnebago)	2012	2013
Town of Wolf River (Winnebago)	2012	2013
Door County	2013	2015

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

preservation zoning districts under an ordinance recertification, nor did it apply if rezoned land is no longer designated for agricultural preservation under a certified county plan. The fee remains in effect for early terminations of certain farmland preservation agreements, which are discussed later.

Until July 1, 2011, the minimum conversion fee was three times the value per acre of the highest-value category of tillable cropland in the city, village, or town in which the rezoned land is located. This is commonly known as the Grade 1 use value, as determined by the Department of Revenue (DOR), and was applied for the year in which the land is rezoned. For the 2012 tax year, the statewide average Grade 1 use value is \$222 per acre. In addition to the policy goals described above, linking the fee to an amount per acre was also intended to make the fee easier to administer than the conversion fee prior to 2009 Act 28, which involved a lien being placed against the rezoned property. Liens were for an amount equaling the farmland preservation tax credits claimed over the previous 10 years, plus interest.

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

2011 Act 32 repealed most of these provisions, along with allowances for zoning authorities to specify higher conversion fees within their local ordinances. Under current law, a zoning

authority may rezone lands from farmland preservation zoning districts if it determines all the following: (a) the land is better suited for a use not allowed in the farmland preservation zoning district; (b) the rezoning is consistent with any applicable comprehensive plan; (c) the rezoning is substantially consistent with the certified county farmland preservation plan; and (d) the rezoning will not substantially impair or limit current or future agricultural uses of surrounding land parcels zoned for or legally restricted to agricultural use. Reporting requirements also still apply, meaning local governments must report to DATCP by each March 1 all acres rezoned the previous year, with accompanying maps showing the changes. Local governments that are not counties must also submit the rezoning reports to the county in which they are located. Although 430 zoning authorities were engaged in farmland preservation zoning for 2010, DATCP received 114 reports for the period.

Conversion fees collected by DATCP prior to Act 32 totaled \$590,500, covering 779.1 converted acres. This equates to an average conversion fee of \$758 per acre for lands with an average Grade 1 use value of \$253 per acre. DATCP reported conversions of between 6,000 and 12,000 acres annually prior to 2009, but the Department expected conversions under the 2009 Act 28 provisions to decline to perhaps 2,000 to 4,000 acres each year due to economic conditions favoring fewer conversions of farmland to other uses. The rezoning of 2,000 to 4,000 acres from farmland preservation zoning districts could have generated between \$1.4 million and \$3.2 million in revenue to the working lands fund each year, but the revenue effect of the 2011 Act 32 fee repeal was perhaps \$560,000 in 2011-12 and \$600,000 in 2012-13, based on actual figures for conversions in the 2010 calendar year.

Although conversion fees still applied for rezoning occurring in the 2011 calendar year and completed prior to July 1, 2011, which was the

effective date of Act 32, no fee collections were remitted to DATCP for deposit in the working lands fund. Rather, a provision in Act 32 specified that local governments were to retain the collections for use in their own farmland preservation programs. DATCP has no direct information on the amount of these fees collected by local governments. Total converted acreage for 2011, as reported in 118 municipalities, was 9,500 acres, according to DATCP.

Special Assessments

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

Farmland Preservation Agreements

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

Farmland preservation agreements under 2009 Act 28 must be in effect for at least 15 years, and they must restrict the land to agricultural uses, accessory uses, or undeveloped natural resource

or open-space uses. (Allowable agricultural and accessory uses are those shown in Table 4.)

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

To be eligible for a farmland preservation agreement, Act 28 requires lands must meet the following requirements: (a) the land is operated as part of a farm that produced at least \$6,000 in gross farm revenues during the taxable year preceding the year in which the owner applies for a farmland preservation agreement, or the land is part of a farm that produced at least \$18,000 in gross farm revenues during the three taxable years preceding the year of application; (b) the land is in a farmland preservation area identified in a certified farmland preservation plan; and (c) the land is in an agricultural enterprise area, which is discussed later in greater detail.

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

Under prior law, farmland preservation agreements could be terminated for specific reasons contained in the statutes. In certain instances, the holder would be subject to a lien on the property, however, for early relinquishment of the agreement, or for other violations of agreement terms. Table 7 shows the amounts of liens or penalties paid by persons relinquishing or violating agreements since 2003-04 averaged less than \$20 per acre.

2009 Act 28 authorizes DATCP to terminate or release lands from an agreement if: (a) all landowners under the agreement consent to termination; (b) DATCP finds that termination will not impair or limit agricultural use of other protected farmland; and (c) the landowners pay DATCP a conversion fee for each acre or portion of acre released from the agreement. The conversion fee is three times the value per acre 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 DOR for the year in which the termination or release occurs. All conversion fees are deposited to the segregated working lands fund. These provisions are identical to those previously applied to lands rezoned from farmland preservation zoning districts. It should be noted all amounts in Table 7 were paid in association with farmland preservation agreements in effect

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

Year	Total Payments	Affected Acreage
2003-04	\$68,500	3,421
2004-05	24,900	2,051
2005-06	59,400	1,934
2006-07	4,500	554
2007-08	4,800	1,188
2008-09	10,700	362
2009-10	14,500	442
2010-11	14,500	668
2011-12	<u>6,000</u>	<u>314</u>
Total	\$207,800	10,934

prior to Act 28, and, as such, these amounts were deposited to the state general 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 July 1, 2012, 3,804 farmland preservation agreements covering 529,042 acres were in effect in Wisconsin. These agreements are shown by county in Appendix 4. Of the active agreements, 3,674 agreements covering 499,100 acres took effect under the 2007 statutes, or the provisions preceding 2009 Act 28. The other 130 agreements, covering 30,000 acres, were created in agricultural enterprise areas under provisions established under Act 28.

Of the agreements in effect under the 2007 statutes, 80 agreements covering 18,600 acres took effect under 2009 Act 374. That act allowed DATCP to process and create farmland preservation agreements under provisions in effect prior to Act 28, provided the agreements were applied for between January 1, 2008, and June 30, 2009, and processing was not completed by July 1,

2009. These agreements are not subject to requirements created by Act 28, but rather the eligibility requirements discussed in Chapter 2. These agreements are, however, eligible to claim either the previous farmland preservation tax credit, which is based on income and property tax liability, or the per-acre credit that takes effect with the 2010 tax year if the landowner agrees to modify the agreement. Agreements created under Act 374 may be valid for up to 10 years. DATCP reports 88 applications for farmland preservation agreements were eligible to enroll in the program under Act 374. Eight applications were dismissed due to the landowner not returning a signed agreement or informing DATCP of an intention to abandon the application.

The total of pre-Act 28 agreements also includes 42 agreements covering 10,100 acres that have modified terms of the agreement to allow the landowner to claim the per-acre farmland preservation tax credit created in Act 28. Pre-Act 28 agreements modified to claim the per-acre tax credit are subject to the Act 28 conversion fee, as opposed to the lien assessed under the 2007 statutes.

Table 8 shows expired or expiring agreements and associated acreage by year beginning in 1996. Beginning with 2009, annual acreage in expiring agreements is expected to decrease each year through 2016.

Table 8: Acreage Expiring from Farmland Preservation Agreements by Year

Year	Agreements Expiring	Total Acreage	Average Acreage
1996	951	140,407	147.6
1997	694	99,738	143.7
1998	488	71,844	147.2
1999	417	58,362	140.0
2000	270	31,521	116.7
2001	307	34,342	111.9
2002	375	43,171	115.1
2003	570	70,269	123.3
2004	375	44,897	119.7
2005	803	86,387	107.6
2006	1,056	106,173	100.5
2007	1,371	142,939	104.3
2008	1,864	169,671	91.0
2009	1,207	128,117	106.1
2010	916	95,366	104.1
2011	810	101,274	125.0
2012	605	72,705	120.2
2013	365	50,184	137.5
2014	273	42,530	155.8
2015	159	23,726	149.2
2016	133	22,656	170.3
2017	159	28,738	180.7
2018	154	33,567	218.0
2019	106	31,014	292.6
2020	68	9,617	141.4
2021	<u>28</u>	<u>4,640</u>	165.7
Totals	14,524	1,743,855	120.1

right-of-way; (b) be located entirely in a farmland preservation area identified in a certified farmland preservation plan; and (c) be land primarily in agricultural use. Unlike the policy instruments discussed earlier, AEAs did not exist prior to 2009 Act 28.

Agricultural Enterprise Areas

Agricultural enterprise areas (AEAs) are intended to be areas targeted for agricultural preservation and development, namely for preserving, expanding and developing farms and other agribusiness. AEAs must: (a) consist of contiguous parcels, including parcels separated only by a lake, stream, or transportation or utility

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

In addition to other application materials, a petition must include: (a) a clear description of agricultural and other land uses in the proposed AEA; (b) a clear description of the agricultural land use and development goals for the proposed AE; (c) a plan for achieving the goals, including any anticipated funding, incentives, cooperative agreements, land or easement purchases, land donations or public outreach; and (d) a description of current or proposed land use controls in the proposed AEA, including farmland preservation agreements. A petition may identify persons who propose to cooperate in achieving land use and development goals.

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

Act 28 authorizes DATCP to have up to 1,000,000 total acres designated in AEAs, although prior to January 1, 2012, DATCP could not designate more than 15 areas covering not more than 200,000 total acres. DATCP is to give preference to areas of at least 1,000 acres of land when evaluating petitions.

In February, 2010, DATCP received 12 petitions covering 222,000 acres for designation as AEAs. The Department in June, 2010, approved all 12 petitions covering 198,246 acres in 27 towns and 11 counties. 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. Acreage was also reduced to comply with the 200,000-acre limit prior to January 1, 2012. DATCP further reduced acreage to 195,527 in November, 2012, due mostly to previously designated acres being subsequently removed from long-term agricultural use under revised county farmland preservation plans.

DATCP received seven petitions for AEA designation in a second request for proposals that concluded in February, 2011. These petitions covered 158,500 acres and parts of 18 towns in five counties. The Department selected five petitions covering 139,931 acres in 12 towns and four counties in May, 2011, although designations did not officially take effect until January 1, 2012, to comply with the Act 28 limit on the number of areas and acres designated.

DATCP closed a third round of petitions March 30, 2012, and five new areas were officially designated in July, 2012. These areas were located in four counties and 12 towns, covering 122,700 acres. In addition, two existing areas had petitions approved to add acreage. In total, the state currently has 22 AEAs comprising 507,000 acres, or about one-half of the total cap under the statutes. All AEAs designated in the first three petition rounds are listed in Appendix 5.

DATCP originally had authority under Act 28 to designate AEAs by emergency administrative rule. These procedures were changed by 2011 Act 253 to authorize DATCP to establish AEAs by an order published in the official state newspaper. Previous rule-based designations remain in effect through 2012, and orders are to be issued before January 1, 2013, to retain the AEA designations made in 2010 and 2011.

Soil and Water Conservation

The farmland preservation program requires

landowners to comply with soil and water conservation practices to receive 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 conservation standards established in administrative rule ATCP 50 (soil and water resource management). Standards must also be consistent with performance standards in administrative rule NR 151 (runoff 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. These changes are intended to streamline the application of soil and water conservation standards, as well as their enforcement.

In addition to being required to conduct on-site inspections every four years, county land conservation committees may require landowners to self-certify compliance with soil and water conservation standards. Counties, in turn, generally are required under Chapter 71 (income and franchise taxes) to issue a certificate of compliance to a landowner claiming the per-acre farmland preservation tax credit, unless the claimant received the pre-2010 farmland preservation credit in the preceding year. The pre-2010 farmland preservation tax credit also requires a certificate from the zoning authority affirming compliance with land use requirements, soil and water

conservation requirements, the location of the property relative to the zoning ordinance, and the status of the zoning ordinance. The requirement that a landowner submit a certification is waived under the pre-2010 credit if circumstances noted under a previous certification have not changed.

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

DATCP reports it reviewed all counties' compliance monitoring activities between 2010 and 2012. Relative to approximately 15,200 claimants reviewed, DATCP estimates 3,300 claimants had been determined to be complying with soil and water conservation standards, of which 1,100 had been issued formal certificates of compliance by the county land conservation department. Approximately 4,100 claimants were given schedules to comply with soil and water conservation requirements by 2015. The remaining 7,800 claimants had not yet been contacted by county conservation staff persons.

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

To maintain landowner compliance with soil and water conservation standards, 52 counties reported working with noncompliant landowners

to attain compliance, such as by placing lands on compliance schedules, prior to issuing formal notices of noncompliance. Additionally, some counties reported their efforts to ensure compliance with conservation standards included targeting cost-share funding under either the DATCP soil and water resource management (SWRM) program or the DNR programs for nonpoint source water pollution abatement to farms claiming farmland preservation tax credits. Other counties directed these funds either on geographic, complaint, or first-come, first-served bases. Additional information on these cost-sharing programs is available in Legislative Fiscal Bureau informational paper #69, "Nonpoint Source Water Pollution Abatement and Soil Conservation Programs."

Purchase of Agricultural Conservation Easements (PACE)

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

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

As of July 1, 2011, the effective date of 2011 Act 32, the PACE program was effectively suspended. As detailed in the following sections, Act 32 modified PACE program requirements and funding such that the program would be inactive at least until the completion of an evaluation of the program, which was required of DATCP under Act 32. Purchases have closed or are expected to close on 18 easements, which are listed in Appendix 6.

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

Application and Selection Procedures

PACE applications are to be submitted by cooperating entities, which are cities, villages, towns, counties or nonprofit conservation organizations. A proposed easement must be located in a farmland preservation area identified in a county's certified farmland preservation plan. A proposed easement does not have to be located in a farmland preservation zoning district or an agricultural enterprise area, but 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.

Although DATCP has not yet developed an administrative rule, agency staff and the PACE Council established the following additional criteria:

- The easement's location must be consistent with a local comprehensive plan, if one exists;
- A qualified soil and water conservation plan must be in effect for the property;
- At least 50% of the property must be in cropland, pasture or grassland;
- The landowner must attest to having produced at least \$6,000 in gross farm revenues during the relevant tax year, or \$18,000 during the previous three tax years; and
- All landowners sign a statement declaring their willingness to convey the proposed easement.

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

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

- The value of the easement in preserving or enhancing agricultural production capacity;
- The importance of the easement in protecting or enhancing waters of the state or other public assets;

- The easement's effect on conservation of important or unique agricultural resources such as prime soils;
- The consistency of the easement with local land use plans and zoning ordinances;
- The easement's effect on enhancing agricultural enterprise areas;
- The availability, practicality, and effectiveness of alternative methods to preserve the land that would be under the easement;
- The proximity between land that would be subject to the easement and other land protected for agricultural or conservation use, and the degree to which the easement would enhance that protection;
- The likely cost-effectiveness of the easement in preserving the land for agricultural use;
- The likelihood that the land would be converted to non-agricultural use if not protected by the easement; and
- The apparent willingness of each landowner to convey the easement.

The Department, in cooperation with the PACE Council, 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 program's most recent 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 commercial, urban or suburban areas in the near future; and (b) easements that are remote and not imminently vulnerable to being diverted from agricultural use.

The first application period following the program's creation began in March, 2010, and DATCP preliminarily approved 16 applications in August, 2010. DATCP subsequently eliminated one of the 2010 selections from consideration, while transactions had closed for 16 of the remaining 18 easements proceeding under the program by December 1, 2012. (DATCP reports three farms from the original group selected had multiple ownership structures over the property, such as some acreage being held under a limited-liability corporation while other acreage was held individually by the landowner. To maintain clarity in title and the recording of easements, the Department entered separate easements for each tract held under a different ownership structure, and the three dual-owned farms each were covered by two easements.) One of the closed easement proposals was awaiting final reimbursement of all eligible costs, while the two outstanding easements were expected to close by the end of 2012.

DATCP announced its second application period in November, 2010, with applications due in February, 2011. The Department received 40 applications. However, because the Governor's

2011-13 budget recommendations and other stand-alone legislation proposed repeal of the PACE program and funding authorizations, DATCP took no action on the second round of applications.

DATCP was required under 2009 Act 28 to solicit applications annually from entities interested in participating in the program. However, as part of the program changes under 2011 Act 32, this requirement was repealed. No further applications are anticipated as of June, 2012, pending future legislation to clarify the scope of the program and funding, if any.

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 es-

timated to have higher purchase prices. First, if an approved easement is estimated by DATCP to have a value exceeding \$350,000, DATCP is required to obtain another independent appraisal. Twelve proposed easements from the 2010 cycle were required to obtain a second appraisal.

Legislative Review. Second, if DATCP proposes to enter into a contract for more than \$750,000 in purchase and transaction costs for any single easement, the purchase of that easement must be submitted to the Joint Committee on Finance under a 14-day passive review process. Under such a review, 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. Two parcels in Waupaca County, as originally proposed in the 2010 application period, would have exceeded the \$750,000 threshold. However, each closed as two separate easements and therefore these transactions were not submitted for review.

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

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

2011; this was the expiration date of a federal income-tax incentive allowing temporarily higher deductions from the donor's adjusted gross income for real property interests contributed to charitable entities for conservation purposes. This incentive, sometimes known as the enhanced easement incentive, allowed persons donating real property interests for conservation purposes to deduct the value of the contribution, up to 50% of the claimant's adjusted gross income for the tax year for most individuals, or up to 100% of adjusted gross income for qualified farmers and ranchers, minus other charitable contributions of the claimant. Such contributions reset to a 30% limit for individuals, and a 50% limit for farmers and ranchers, beginning January 1, 2012. Further, the enhanced easement incentive allowed the claimant to carryover unused claims for 15 years following the initial claim, as opposed to a typical limit of five years. As an example of how these provisions may have applied, a qualified farmer or rancher with adjusted gross income of \$50,000 per year and no other charitable contributions could claim income deductions of \$50,000 per year for 16 years, or up to \$800,000 total. Other landowners with adjusted gross income of \$50,000 per year and no other charitable contributions could claim income deductions of \$25,000 per year for 16 years, or \$400,000 total. Therefore, depending on a landowner's annual income and the purchase price of an easement, a PACE participant could deduct from his or her taxable income a significant amount, and perhaps all, of the amount donated to the PACE transaction.

In addition to its portion of the fair market value, DATCP may pay reasonable transaction costs related to the easement's purchase. The statutes specify that eligible transaction costs 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 an administrative rule-making process with respect to the PACE program as of December, 2012, nor did DATCP expect to begin drafting rules while the program is effectively suspended. 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. Also, the Department established limits on reimbursements for specific categories of transaction costs, such as reimbursing 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 be approved by DATCP, as not all easements require such reviews. In addition to the statutorily defined transaction costs, DATCP also allows for environmental hazards assessments completed under contract with professional consultants. Signage at a subject property declaring the land's enrollment in PACE is a reimbursable cost, but DATCP reports it has not reimbursed any such activity in the program.

Program officials report reimbursable transaction costs 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, agreements on transaction costs have been contained in the purchase contracts reached with cooperating entities. Contracts have also detailed standards for appraisals and other terms of the easement purchase.

Following the purchase of an easement, a cooperating entity is to submit the easement document to DATCP, both immediately following the purchase and following the filing and certification of the easement document by the county register of deeds. After the easement is recorded, and 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. DATCP requires reimbursement claims to be submitted within six months of closing.

Easement Terms

Landowners under an easement own the land and continue to pay property taxes on it, but DATCP and eligible cooperating entities jointly hold the easement. The land can be sold or passed to heirs, 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 4; (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 provided \$12 million in general obligation bonding authority to DATCP for the purchase of agricultural conservation easements. The act offset this authorization by reducing GPR-supported bonding authority for the Conservation Reserve Enhancement Program (CREP) from \$40 million to \$28 million. CREP makes payments to landowners who remove agricultural lands from active production under 15-year agreements or perpetual easements to help control soil erosion and maintain or improve water quality. The state participates in CREP under an agreement with the U.S. Department of Agriculture (USDA). The agreement requires the state to provide a 20% match for up to \$200 million in federal payments to landowners.

To make debt service payments on PACE bonds, Act 28 created a GPR sum-sufficient appropriation and a sum-certain, annual working lands SEG appropriation. No working lands SEG has been appropriated for PACE debt service; had any amounts been appropriated and debt obliga-

tions incurred, debt service would have first been paid by working lands SEG, with remaining amounts supported by GPR.

2011 Act 32 repealed the \$12 million bonding authorization, as well as the GPR and SEG debt service appropriations. Instead, the easements purchased in the 2010 cycle are funded by bonding authorized for the Knowles-Nelson Stewardship program. Based on DATCP's estimates of final PACE purchase prices as of early 2011, Act 32 provides up to \$5.2 million, to be funded from the Stewardship land acquisition subprogram. Debt service on Stewardship program land purchases is supported by a GPR sum-sufficient appropriation and a sum-certain, annual appropriation from the forestry account of the segregated conservation fund. Despite being supported by Stewardship funding, Act 32 specifies the agricultural conservation easements would not be subject to Stewardship program requirements, such as public access for hunting, fishing, trapping or other recreational uses.

2009 Act 28 created two other appropriations to fund agricultural conservation easements, neither of which were affected by 2011 Act 32: (a) a program revenue, continuing appropriation funded by gifts, grants and payments received for the modification, termination or sale of easements; and (b) an annual working lands SEG appropriation. No expenditures are authorized from these appropriations in the 2011-13 biennium.

Farm and Ranch Lands Protection Program Cooperation. In some instances, state funding under the PACE program has combined with federal funding under the Farm and Ranch Lands Protection Program (FRPP) to leverage funding available under this federal program for the purchase of agricultural conservation easements. The USDA and American Farmland Trust report Wisconsin landowners have received total allocations of \$20.7 million under FRPP from the program's inception in 1996 through the 2011 federal fiscal

year. NRCS reports \$665,900 was available to Wisconsin farmers in the federal fiscal year ending September 30, 2012. Much like the state pays under PACE, FRPP allows USDA to pay up to 50% of the cost of an easement. FRPP also has established a maximum payment of \$4,000 per acre. 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 are 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.

DATCP Administration and the Working Lands Fund

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 six staff persons

and one supervisor, constituting 6.6 FTE positions as of December 1, 2012, are partly or wholly assigned to working lands programs. Of this total, six are staff of the Bureau of Land and Water Resources supported by the nonpoint account of the segregated environmental fund. An additional staff person is supported by program revenues (PR). These staff persons have overlapping responsibilities with CREP implementation and geographic information systems (GIS) deployment and use in other DATCP programs. Additionally, DATCP reports three staff persons supported by the segregated agrichemical management fund and one staff person supported by a USDA federal grant each have perhaps 10% of their workload, for about 0.4 FTE total, associated with checking county compliance with statutory oversight requirements in the working lands program. DATCP estimates the portion of salary and fringe benefits dedicated by all staff to Working Lands programs are \$536,800 as of December, 2012.

In addition to the appropriations noted earlier for planning grants and easement purchases, Act 28 created an annual working lands SEG appropriation for DATCP administration. This appropriation has no expenditure authority in the 2011-13 biennium. An annual working lands SEG appropriation was also created for DOR's administration of the farmland preservation tax credit, but this appropriation also has no expenditure authority in the 2011-13 biennium.

Working Lands Fund Condition

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

from farmland preservation zoning districts between January 1 and December 31, 2010, prior to the repeal of the rezoning conversion fee in 2011 Act 32, and investment income.

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

As shown in Table 9, the fund had a June 30, 2012, balance of \$384,800. The June 30, 2013, balance is estimated at \$135,000. It is anticipated future revenues to the fund from farmland preservation agreement terminations or easement modifications, terminations or sales would be minimal, if any. Interest earnings also are not expected to generate significant future income.

Table 9: Working Lands Fund Condition

	Actual 2010-11	Actual 2011-12	Estimated 2012-13
Opening Balance	\$0	\$384,300	\$384,800
Conversion Fees	590,500	0	0
Other Income	200	500	200
Expenditures	0	0	0
Transfers	<u>-206,400*</u>	<u>0</u>	<u>-250,000*</u>
Closing Balance	\$384,300	\$384,800	\$135,000

* Includes \$206,400 in discretionary transfers to the general fund in 2010-11 and directed general fund transfers of \$250,000 in 2012-13 under 2011 Act 278.

Working Lands Program Reports

Biennial Reporting. DATCP, in cooperation with DOR, must report to the Board of Agriculture, Trade and Consumer Protection and DOA on farmland preservation no later than December

31, 2011, and biennially thereafter. The biennial reports must generally contain information on farmland availability, trends in farmland uses, participation in the program by municipalities and land owners, including tax credits claimed, soil and water conservation practices in use by landowners claiming tax credits, and program costs and trends, including recommendations for program modifications. DATCP submitted the first biennial report in December, 2011.

DATCP reported several findings in the first biennial report, including:

- Counties often conduct farmland preservation planning with consideration given to soil quality, but in some instances counties also have deferred to individual landowner preferences instead. The Department contends such planning may tend to create less contiguity in both farmland preservation areas and non-agricultural areas, which could risk the long-term viability of the activity for which the land is designated;

- In general, less acreage is being designated in county plans for long-term agricultural use, although it is not clear whether this is due to changes in planning requirements, diminishing interest in farmland preservation programs and tax credits, a desire for additional nonagricultural development, or a combination of these factors;

- Since 2009 Act 28 took effect, most certifications issued for farmland preservation zoning ordinances have been amendment certifications rather than full ordinance recertifications, typically to take advantage of Act 28 provisions such as allowances for construction of nonfarm residences within farmland preservation zoning districts;

- Acreage in farmland preservation zoning districts is in general decline, similar to the trends observed in designated agricultural areas under county plans, and also owing perhaps in part to zoning designations being made with deference to the preference of individual landowners; and

- Despite economic conditions that have generally decreased pressures to convert farmland for nonagricultural development in recent years, local governments have had fewer resources to conduct planning activities or enact policy changes to balance future agricultural and nonagricultural development.

As part of the statutory requirement to make recommendations, DATCP also suggested continuing outreach for the farmland preservation programs with local governments and other interested entities, and increasing the cap on acreage in AEAs from the current limit of 1 million acres. Lifting the AEA acreage cap, however, would confer eligibility for additional farmland preservation agreements, which could increase eligible claims for the highest level of farmland preservation tax credits.

PACE Evaluation. As part of the suspension of the PACE program under 2011 Act 32, DATCP was required to conduct an evaluation of the PACE program, including the following aspects: (a) the administration of the program; (b) the source of funding for the program; (c) state financial participation; and (d) the amount of local matching funds required. Further, the act specified DATCP was to include options for a program that would be less costly and more efficient in preserving farmland. The evaluation was to be completed by June 30, 2012, and DATCP presented the evaluation to the Board of Agriculture, Trade and Consumer Protection in June, 2012.

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

for perpetual agricultural conservation.

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

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

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

DATCP also proposed several administrative changes to improve program efficiency, including: (a) requiring several additional documents at the time of application, including a title search, confirmed boundary of easement, legal property description, an indication by the cooperating entity of whether a certified survey is needed, and the number of building rights, if any, the landowner proposes to maintain for later limited development in accordance with the easement; (b) require a DATCP site visit promptly following preliminary approval of an application; (c) limiting the need for a second appraisal, perhaps by instead requiring an appraisal review for any initial appraisal over \$350,000; (d) require a memorandum of understanding between DATCP and the cooperating entity; (e) allow escrow closings as a means of making payment to cooperating entities, similar to DNR procedures for closing on Stewardship purchases; and (f) require persons seeking joint PACE-FRPP funding to apply to PACE first and then FRPP, as PACE preliminary approval could strengthen the FRPP application and certain aspects, such as appraisals, could be streamlined.

DATCP contended that the purchasing process was slowed by gathering the legal documents following preliminary approval rather than having them at the time of application. Similarly, a DATCP site visit would be intended to identify any issues immediately following preliminary approval that may compromise the ability of parties to complete an easement purchase. Finally, DATCP reported second appraisals in many cases were substantially different, which led to confusion between parties as to the proposed easement's value, and also complicated the negotiation process. In lieu of a second appraisal, DATCP also suggested using second reviews under the FRPP, for easements using federal funding. DATCP reports for instances in which two appraisals have differed significantly, the Department has hired a third-party reviewer to determine which appraisal most accurately reflected easement value.

*FARMLAND PRESERVATION TAX CREDITS***Introduction**

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

Pre-2010 Farmland Preservation Tax Credit

The original farmland preservation program, which continues to exist beyond tax year 2010 for some farmland preservation agreement holders, provides property tax relief to farmland owners and, similar to the new credit, 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 GPR, sum-sufficient appropriation.

The pre-2010 farmland preservation program continues to exist for farmland preservation agreement holders who: (a) signed an agreement prior to July 1, 2009; or (b) 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 non-farm business losses.

Property Taxes. Eligible property taxes include up to \$6,000 of property taxes levied on the farmland and improvements, exclusive of special assessments, delinquent interest, and charges for service. A claimant must certify that all taxes owed on this property in the previous year have been paid. This requirement may not apply to claimants who choose to compute their credit using the law as it existed when they first signed a preservation agreement.

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

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

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

The degree of land use restriction and the associated percentage of the potential credit received by claimants vary by municipality. Appendix 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 were: (a) county farmland preservation plans; (b) individual preservation agreements; and (c) exclusive agricultural zoning. The level of tax credit varied depending on the land use policy in effect. Under Act 28, pre-2010 tax credits can continue to be claimed only under an eligible farmland preservation agreement. In addition, all participants must comply with certain soil and water conservation standards.

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 had not adopted a county plan prior to 2009 Act 28, which requires all counties to create a farmland preservation 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.

Eligible applicants with an existing farmland preservation agreement can also modify their agreements with DATCP to meet the requirements of the per-acre credit in order to be eligible for that credit. However, no agreement holder may claim both the pre-2010 farmland preservation credit and the new, per-acre credit. As of July, 2012, 42 farmland preservation agreements had been modified so as to claim the new, per-acre credit. These agreements cover over 10,000 acres of farmland.

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 were not required for land located in an exclusive agricultural zone, but farmers with land in these areas could sign a contract.

Current Participation. As of July, 2012, there were 3,674 farmers under farmland preservation agreements covering 499,100 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 could no longer apply for that credit after tax year 2009. However, due to their existing zoning and land use re-

strictions, 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 2002-03 is listed in Table 10. The sharp decline since 2009-10 reflects the creation of the new, per-acre credit, the eligibility of claimants for that program, and the prohibition of new claims for the pre-2010 credit by those without an existing farmland preservation agreement.

Table 10: Pre-2010 Farmland Preservation Tax Credits by Fiscal Year

Fiscal Year	Total Amount of Claims
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
2010-11	6,126,000
2011-12	3,518,000

Source: Wisconsin Annual Fiscal Report

DATCP has reported a number of filers for the 2010 tax year, the first under the per-acre credit, likely filed the incorrect claim form with DOR. DATCP estimated claims covering perhaps 500,000 acres under farmland preservation zoning filed for the pre-2010 credit, which should have only been claimed by persons holding agreements created under the 2007 statutes, rather than the per-acre credit. As a result, DATCP estimated about \$1.5 million in farmland preservation tax credits that should have been claimed in 2011 were unclaimed. However, filers have four years following the initial claim to submit amended income tax returns.

For the 2011 tax year, DOR data show 4,200 individual claimants under the pre-2010 credit, with approximately 750,000 acres subject to claims and credits averaging \$4.33 per acre. This acreage total appears to continue exceeding the total of approximately 500,000 acres that would have been covered by farmland preservation agreements over the period, suggesting some claimants may be continuing to file the incorrect claims.

Per-Acre Farmland Preservation Tax Credit

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

a. \$10, if the qualifying acres are located in a farmland preservation zoning district and are also subject to a farmland preservation agreement entered into after July 1, 2009;

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

c. \$5, if the qualifying acres are subject to a farmland preservation agreement entered into after July 1, 2009, but are not located in a farmland preservation zoning district.

The credit will receive total funding of \$27,007,200 GPR in 2012-13. 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. 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 each fiscal year, and to account for any excess claims

from the preceding fiscal year. In 2011-12, per-acre farmland preservation credit claims totaled \$16,074,400.

For the 2011 tax year DOR data indicate 10,900 individual claimants under the per-acre credit. (This excludes corporate and trust claimants.) Total acreage held by claimants was approximately 2.0 million acres with credits averaging approximately \$7.70 per acre.

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.

2009 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 (DOA) 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, a "farm" is defined as all the land under common ownership that is primarily devoted to agricultural use and that has produced at least \$6,000 in gross farm revenues during the taxable year to which the claim relates or, in that taxable year and the two immediately preceding taxable years, at least \$18,000 in gross farm revenues. "Gross farm revenues" means gross receipts from agricultural use of a farm, excluding rent receipts, less the cost or other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. "Agriculture" is defined as any of the uses identified as agricul-

tural in Table 4 of Chapter 1.

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

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

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

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

d. For purposes of filing a credit claim, the personal representative of an estate and the trustee of a trust are considered the owner of farmland. However, a claimant does not include the estate of a person who is a nonresident of this state on the person's date of death, a trust created by a nonresident person, a trust which receives Wisconsin real property from a nonresident person, or a trust in which a nonresident settlor retains a beneficial interest.

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

f. When a guardian has been appointed 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 credit.

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

APPENDIX 1

County Population Figures and Farmland Preservation Plan Status

County	Plan Certified/ Recertified	Land Area (sq. miles)	Population Census 2000	Population Estimate 1/1/2007	Density Change 2000-2007	Plan Expiration	Planning Grants Awarded
Adams	2004	647.74	19,920	21,645	2.66	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	2012+	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	2010/2011	319.84	40,631	46,031	16.88	2019	0
Chippewa	1984	1,010.43	55,195	61,604	6.34	2013+	30,000
Clark	1986	1,215.64	33,557	34,479	0.76	2015	0
Columbia	1978	773.79	52,468	55,636	4.09	2013+	30,000
Crawford	1981	572.69	17,243	17,553	0.54	2015	0
Dane	2012	1,201.89	426,526	468,514	34.93	2022	30,000
Dodge	2011	882.28	85,897	89,225	3.77	2021	17,000
Door	1982	482.72	27,961	30,043	4.31	2014++	10,100
Douglas	1982	1,309.13	43,287	44,096	0.62	2015	0
Dunn	1981	852.03	39,858	43,118	3.83	2013+	30,000
Eau Claire	1983	637.64	93,142	98,000	7.62	2014++	30,000
Florence	1983	488.03	5,088	5,295	0.42	2015	0
Fond du Lac	1981	722.91	97,296	101,174	5.36	2012	30,000
Forest	1983	1,014.05	10,024	10,329	0.30	2015	0
Grant	2011	1,147.85	49,597	51,037	1.25	2021	0
Green	2012	583.99	33,647	36,262	4.48	2022	30,000
Green Lake	1983	354.28	19,105	19,446	0.96	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	2011	557.01	75,767	80,411	8.34	2021	30,000
Juneau	1979	767.61	24,316	27,177	3.73	2013	0
Kenosha	1982	272.83	149,577	161,370	43.23	2013++	30,000
Kewaunee	1982	342.64	20,187	21,198	2.95	2017*	0
La Crosse	2012	452.74	107,120	111,791	10.32	2022	30,000
Lafayette	1980	633.57	16,137	16,317	0.28	2015	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
Manitowoc	2005	591.53	82,893	84,603	2.89	2015*	\$0
Marathon	1982	1,544.96	125,834	134,028	5.30	2013+	30,000
Marinette	1981	1,401.76	43,384	44,646	0.90	2014	0
Marquette	1982	455.49	14,555	15,319	1.68	2014	0
Menominee	---	357.96	4,562	4,606	0.12	2015	0

County	Plan Certified/ Recertified	Land Area (sq. miles)	Population Census 2000	Population Estimate 1/1/2007	Density Change 2000-2007	Plan Expiration	Planning Grants Awarded
Milwaukee	---	241.56	940,164	937,324	-11.76	2015	\$0
Monroe	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	2012	640.34	161,091	173,773	19.81	2022	30,000
Ozaukee	1983	231.95	82,317	86,697	18.88	2012+	30,000
Pepin	1979	232.28	7,213	7,714	2.16	2013	0
Pierce	1982	576.49	36,804	40,235	5.95	2013+	30,000
Polk	1979	917.27	41,319	45,611	4.68	2013+	30,000
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	2014+++	30,000
Richland	1981	586.20	17,924	18,208	0.48	2015	0
Rock	2005	720.47	152,307	159,530	10.03	2015*	30,000
Rusk	1983	913.13	15,347	15,627	0.31	2015	0
St. Croix	2012	721.82	63,155	79,020	21.98	2022	30,000
Sauk	2006	837.63	55,225	60,673	6.50	2016*^	30,000
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	2005	513.63	112,656	117,045	8.55	2015*^	30,000
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	2012	555.31	92,013	100,672	15.59	2022	30,000
Washburn	1982	809.68	16,036	17,403	1.69	2014	0
Washington	1981	430.82	117,496	129,316	27.44	2012+	30,000
Waukesha	2011	555.58	360,767	381,651	37.59	2021	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	2012	438.58	156,763	164,703	18.10	2017	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.

+ County has received an extension of one year (+) or two years (++), as of November 1, 2012. Date shown includes the number of years by which the plan has been extended.

^ County contains one or more towns with certification expiration dates preceding the general countywide date.

APPENDIX 2

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

County	Plan Certified/ Recertified	Land Area (sq. miles)	Population Census 2000	Population Estimate 1/1/2007	Density Change 2000-2007	Plan Expiration	Planning Grants Awarded
Brown	1985	528.68	226,658	244,764	34.25	2012+	\$30,000
Fond du Lac	1981	722.91	97,296	101,174	5.36	2012	30,000
Ozaukee	1983	231.95	82,317	86,697	18.88	2012+	30,000
Washington	1981	430.82	117,496	129,316	27.44	2012+	30,000
Barron	1979	862.84	44,963	47,551	3.00	2013	0
Chippewa	1984	1,010.43	55,195	61,604	6.34	2013+	30,000
Columbia	1978	773.79	52,468	55,636	4.09	2013+	30,000
Dunn	1981	852.03	39,858	43,118	3.83	2013+	30,000
Iowa	1980	762.67	22,780	24,130	1.77	2013	0
Juneau	1979	767.61	24,316	27,177	3.73	2013	0
Kenosha	1982	272.83	149,577	161,370	43.23	2013++	30,000
Marathon	1982	1,544.96	125,834	134,028	5.30	2013+	30,000
Monroe	1982	900.77	40,896	43,838	3.27	2013	0
Oconto	1985	997.97	35,652	38,958	3.31	2013	0
Pepin	1979	232.28	7,213	7,714	2.16	2013	0
Pierce	1982	576.49	36,804	40,235	5.95	2013+	30,000
Polk	1979	917.27	41,319	45,611	4.68	2013+	30,000
Portage	1985	806.31	67,182	69,959	3.44	2013	0
Shawano	1982	892.51	40,664	42,413	1.96	2013	0
Vernon	1981	794.87	28,056	29,530	1.85	2013	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
Adams	2004	647.74	19,920	21,645	2.66	2014*	0
Burnett	1982	821.52	15,674	16,749	1.31	2014	0
Door	1982	482.72	27,961	30,043	4.31	2014++	10,100
Eau Claire	1983	637.64	93,142	98,000	7.62	2014++	30,000
Green Lake	1983	354.28	19,105	19,446	0.96	2014	0
Jackson	1986	987.32	19,100	20,080	0.99	2014	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
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
Oneida	1983	1,124.50	36,776	38,600	1.62	2014	0
Racine	1982	333.10	188,831	195,113	18.86	2014+++	30,000
Sawyer	1982	1,256.42	16,196	17,542	1.07	2014	0

County	Plan Certified/ Recertified	Land Area (sq. miles)	Population Census 2000	Population Estimate 1/1/2007	Density Change 2000-2007	Plan Expiration	Planning Grants Awarded
Trempealeau	1980	734.08	27,010	28,119	1.51	2014	\$0
Vilas	1984	873.72	21,033	22,545	1.73	2014	0
Washburn	1982	809.68	16,036	17,403	1.69	2014	0
Wood	1984	792.78	75,555	76,839	1.62	2014	0
Ashland	1982	1,043.82	16,866	16,879	0.01	2015	0
Bayfield	1982	1,476.25	15,013	15,990	0.66	2015	0
Buffalo	1980	684.47	13,804	14,183	0.55	2015	0
Clark	1986	1,215.64	33,557	34,479	0.76	2015	0
Crawford	1981	572.69	17,243	17,553	0.54	2015	0
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Forest	1983	1,014.05	10,024	10,329	0.30	2015	0
Iron	1983	757.23	6,861	7,002	0.19	2015	0
Lafayette	1980	633.57	16,137	16,317	0.28	2015	0
Manitowoc	2005	591.53	82,893	84,603	2.89	2015*	0
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Rusk	1983	913.13	15,347	15,627	0.31	2015	0
Sheboygan	2005	513.63	112,656	117,045	8.55	2015*^	30,000
Taylor	1981	974.86	19,680	20,049	0.38	2015	0
Sauk	2006	837.63	55,225	60,673	6.50	2016*^	30,000
Kewaunee	1982	342.64	20,187	21,198	2.95	2017*	0
Winnebago	2012	438.58	156,763	164,703	18.10	2017	30,000
Calumet	2010/2011	319.84	40,631	46,031	16.88	2019	0
Dodge	2011	882.28	85,897	89,225	3.77	2021	17,000
Grant	2011	1,147.85	49,597	51,037	1.25	2021	0
Jefferson	2011	557.01	75,767	80,411	8.34	2021	30,000
Waukesha	2011	555.58	360,767	381,651	37.59	2021	0
Dane	2012	1,201.89	426,526	468,514	34.93	2022	30,000
Green	2012	583.99	33,647	36,262	4.48	2022	30,000
La Crosse	2012	452.74	107,120	111,791	10.32	2022	30,000
Outagamie	2012	640.34	161,091	173,773	19.81	2022	30,000
St. Croix	2012	721.82	63,155	79,020	21.98	2022	30,000
Walworth	2012	555.31	92,013	100,672	15.59	2022	30,000

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

+ County has received an extension of one year (+) or two years (++), as of November 1, 2012. Date shown includes the number of years by which the plan has been extended.

^ County contains one or more towns with certification expiration dates preceding the general countywide date.

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, Stanford, Stanley, Sumner, and Turtle Lake.

BROWN (2012)

Villages of Bellevue (2014++), Hobart (2013+), Howard (2014++), Suamico (2013+) and Wrightstown.
Towns of Eaton (2014++), Glenmore (2014++), Green Bay, Holland (2014++), Humboldt (2013+), Lawrence, Ledgeview (2014++), Morrison, New Denmark (2014++), Pittsfield (2014++), Rockland (2014++), Scott (2014++), and Wrightstown (2014++).

BURNETT (2015)

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

CALUMET (2019)

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

CLARK (2016)

Town of Colby.

COLUMBIA (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 Wyocena.

CRAWFORD (2016)

Village of Soldiers Grove.
Towns of Haney and Utica.

DANE (2014++)

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 (2022)

Towns of Burnett (2013), Calamus, Elba (2013), Herman (2022), LeRoy, Lomira, Oak Grove, Portland (2021), Shields, Theresa (2022), Trenton and Williamstown (2013).

DOOR (2015++)

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, Taychedah (2014) and Waupun.

GRANT (2021)

City of Platteville. (Extraterritorial)
Towns of Clifton, Ellenboro, Fennimore, Harrison, Hickory Grove,

Jamestown, Liberty, Lima, Millville, Mount Hope, Mount Ida, Paris, Platteville, Potosi, South Lancaster, Watterstown and Wingville.

GREEN LAKE (2015)

City of Berlin (2016). (Extraterritorial)
Towns of Berlin, Brooklyn, Green Lake, Mackford, Manchester and Marquette.

IOWA (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 (2022)

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

KENOSHA (2014++)

Villages of Bristol (2014++) and 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)

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

LAFAYETTE (2016)

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 (2012+) *

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

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 (2013++++), Kaukauna (2014++), Maple Creek, and Seymour.

OZAUKEE (2012)

Towns of Belgium (2014++), Cedarburg (2014++), Fredonia (2014++), 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 (2014++)

Towns of Burlington and Waterford.

RICHLAND (2016)

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

ROCK (2012)

Cities of Edgerton (2014++), Evansville and Milton (2014++). (Extraterritorial)

Towns of Avon (2013+), Beloit (2014++), Bradford (2014++), Center (2014++), Clinton (2017), Fulton (2014++), Harmony (2017), Janesville (2014++), Johnstown (2014++), La Prairie (2018), Lima (2014++), Magnolia (2018), Milton (2014++), Newark (2014++), Plymouth (2014++), Porter, Rock (2014++), Spring Valley (2014++), Turtle (2014++) and Union (2014++).

ST. CROIX (2014++)

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, Honey Creek, Ironton (2013), Prairie Du Sac, Reedsburg, Sumpster, 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, Lima, Lyndon (2017), Mosel, Plymouth, Rhine, Russell (2017), Scott, Sheboygan Falls (2018), Sherman, and Wilson.

VERNON (2014)

Towns of Coon and Harmony.

WALWORTH (2014++)

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

WASHINGTON (2012)

Towns of Barton, Hartford (2014+++), Kewaskum (2012++), Richfield and Trenton.

WAUKESHA (2014++)

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

WINNEBAGO (2012)

Towns of Clayton, Neenah, Nekimi, Utica, Vinland (2013+), Winchester and Wolf River (2013+).

Total Agricultural Zoning Occurrences

Towns, County Zoning	276
Towns, Self-Administered Zoning	114
Village-Administered Zoning	20
City-Administered Zoning	<u>16</u>
Total	426

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

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

Underlined municipalities indicate towns added since 2009 Act 28.

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

* Date listed for expiration of Manitowoc County's ordinance certification applies only to certification of the text of the zoning ordinance. Municipalities under county-administered zoning in Manitowoc County have farmland preservation zoning ordinance maps certified through 2014, based on two-year certification extensions approved by DATCP, which confers eligibility for tax credits through the 2014 tax year.

APPENDIX 4

Farmland Preservation Agreements

Total Agreements - July, 2012

County	Agreements	Total Acres	County	Agreements	Total Acres
Adams	17	2,572	Marathon	208	23,228
Ashland	5	1,186	Marinette	18	1,653
Barron	85	11,836	Marquette	8	914
Bayfield	34	4,866	Monroe	122	14,385
Buffalo	199	38,858	Oconto	37	5,376
Burnett	18	2,544	Oneida	2	1,260
Calumet	65	5,267	Outagamie	11	1,469
Chippewa	126	12,422	Ozaukee	3	244
Clark	65	8,168	Pepin	76	11,506
Columbia	54	5,923	Pierce	82	11,929
Crawford	67	13,395	Polk	42	7,723
Dane	21	2,849	Portage	16	3,123
Dodge	149	17,740	Price	30	4,094
Door	32	3,150	Racine	1	64
Douglas	14	2,361	Richland	69	13,240
Dunn	73	11,329	Rock	7	1,496
Eau Claire	6	336	Rusk	67	10,399
Florence	5	757	Saint Croix	79	10,022
Grant	153	30,392	Sauk	149	21,288
Green	131	19,771	Sawyer	2	755
Green Lake	30	2,144	Shawano	167	20,559
Iron	1	338	Sheboygan	4	102
Jackson	73	9,368	Taylor	44	6,266
Jefferson	1	60	Trempealeau	410	50,058
Juneau	55	9,801	Vernon	238	27,412
Kewaunee	4	495	Vilas	1	215
Lafayette	78	10,588	Washburn	16	2,982
Langlade	99	24,041	Washington	21	1,332
Lincoln	9	1,005	Waukesha	5	511
Manitowoc	1	141	Waupaca	132	11,027
			Waushara	39	6,395
			Winnebago	2	645
			Wood	<u>26</u>	<u>3,388</u>
			Total	3,804	529,042

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

APPENDIX 4 (continued)

Farmland Preservation Agreements

**Agreements Entered
under 2009 Act 374**

**Agreements Modified to Claim Post-2010
Farmland Preservation Tax Credit**

County	Agreements	Total Acres	County	Agreements	Total Acres
Barron	1	140	Chippewa	4	451
Bayfield	4	709	Columbia	1	178
Buffalo	6	1,617	Dodge	5	676
Burnett	1	92	Grant	1	402
Clark	1	74	Jackson	3	413
Chippewa	3	203	Lafayette	5	888
Crawford	1	250	Langlade	4	975
Grant	6	2,288	Monroe	2	2606
Green	3	393	Saint Croix	1	280
Jackson	1	163	Sauk	9	1795
Juneau	2	488	Vernon	6	1178
Lafayette	1	145	Washington	<u>2</u>	<u>239</u>
Langlade	2	508			
Marathon	4	810	Total	42	10,081
Monroe	2	764			
Oconto	1	263			
Pierce	6	1,376			
Polk	2	414			
Price	1	205			
Richland	3	1,161			
Rusk	5	760			
Saint Croix	1	280			
Shawano	1	480			
Taylor	3	343			
Trempealeau	14	4,175			
Vernon	4	364			
Waushara	<u>2</u>	<u>741</u>			
Totals	80	18,573			

Post-2009 Act 28 Agreements in Agricultural Enterprise Areas

County	Agreements	Total Acres	AEA
Calumet	2	261	Hilbert Ag Land on Track
Chippewa	3	487	Bloomer
	6	1,062	Cadott Area
Dane	9	941	Windsor
Dodge	5	950	Burnett
	1	24	Ashippun/Oconomowoc
Jefferson	1	60	Scuppernong
Langlade	79	21,853	Antigo Flats
Polk	1	240	Squaw Lake
Rock	7	1,496	La Prairie
Shawano	13	2,283	Maple Grove
Waukesha	<u>3</u>	<u>318</u>	Ashippun/Oconomowoc
Totals	130	29,975	

APPENDIX 5

Agricultural Enterprise Areas

Agricultural enterprise areas approved since 2009 Act 28 are listed below. 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	F.P. Zoning Acreage	Petitioning Municipalities	Under F.P. Zoning
January, 2011 Designees					
Antigo Flats	Langlade	62,278	55,443	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	28,841	10,238	Town of Ashippun (Dodge)	No
				Town of Oconomowoc (Waukesha)	Yes
Bayfield	Bayfield	2,821	0	Town of Bayfield	No
Bloomer Area	Chippewa	4,380	0	Town of Bloomer	No
Cadott Area Cooperative	Chippewa	1,640	0	Town of Goetz	No
				Town of Delmar	No
La Prairie	Rock	21,093	21,093	Town of La Prairie	Yes
				Town of Turtle	Yes
Maple Grove	Shawano	21,669	21,669	Town of Maple Grove	Yes
Rush River Legacy	St. Croix	8,370	8,370	Town of Rush River	Yes
Scuppernong	Jefferson	14,015	14,015	Town of Cold Spring	Yes
				Town of Hebron	Yes
				Town of Palmyra	Yes
				Town of Sullivan	Yes
Squaw Lake	Polk	9,607	1,733	Town of Alden	No
				Town of Farmington	No
				Town of Somerset	Yes
				Town of Star Prairie	Yes
Town of Dunn	Dane	10,038	10,038	Town of Dunn	Yes
Windsor	Dane	<u>10,775</u>	<u>10,775</u>	Town of Windsor	Yes
Acreage Subtotal		195,527	153,374		

APPENDIX 5 (continued)

Agricultural Enterprise Areas

AEA Name	County	Total Acreage	F.P. Zoning Acreage	Petitioning Municipalities	Under F.P. Zoning
January, 2012 Designees					
Burnett	Dodge	14,736	14,736	Town of Burnett	Yes
Fairfield	Sauk	9,501	0	Town of Fairfield	No
Heart of America's Dairyland	Clark	60,985	21,500	Town of Beaver	No
				Town of Colby	Yes
				Town of Loyal	No
				Town of Mayville	No
				Town of Unity	No
Hilbert Ag Land on Track	Calumet	28,217	25,322	Town of Brillion	Yes
				Town of Chilton	Yes
				Town of Rantoul	Yes
				Town of Woodville	Yes
Trenton	Dodge	<u>26,492</u>	<u>26,492</u>	Town of Trenton	Yes
Acreage Subtotal		139,931	88,050		
January, 2013 Designees					
Antigo Flats (Expansion)	Langlade, Marathon	11,826	0	Town of Vilas (Langlade)	Yes
				Town of Harrison (Marathon)	No
Elba-Portland	Dodge	38,580	38,580	Town of Elba	Yes
				Town of Portland	Yes
Halfway Creek Prairie	La Crosse	1,647	1,647	Town of Holland	Yes
				Town of Onalaska	Yes
Heart of America's Dairyland (Expansion)	Marathon	36,999	36,999	Town of Brighton	Yes
				Town of Hull	Yes
Pecatonica	Lafayette	45,776	35,576	Town of Argyle	Yes
				Town of Blanchard	No
				Town of Lamont	Yes
Shields-Emmet	Dodge	16,051	12,551	Town of Emmet	No
				Town of Shields	Yes
Vienna-Dane-Westport	Dane	<u>20,681</u>	<u>20,681</u>	Town of Dane	Yes
				Town of Vienna	Yes
				Town of Westport	Yes
Acreage Subtotal		171,560	146,034		
Acreage Totals		507,018	387,458		

APPENDIX 6

Agricultural Conservation Easements

County/Town	Operation Type	Acres	Cooperating Entity/Entities	Appraised Value	DATCP Share		Other Designations	
					Purchase Costs	Transaction Costs	AEA	F.P. Zoning
Closed Purchases								
Columbia/Fountain Prairie	Beef	267	Natural Heritage Land Trust (NHLT)	\$526,300	\$263,150 ^a	\$2,525		X
Dane/Black Earth	Dairy	172	NHLT	\$560,900	\$280,450 ^a	\$5,000 ^b		X
Dane/Windsor	Heifer	136	Town of Windsor, NHLT	519,500	259,750 ^a	\$4,404	X	X
Dodge/Ashippun, Lebanon	Dairy, hay, seed	238	Tall Pines Conservancy	551,000	192,850	8,940	X	X
Iowa/Brigham	Dairy	450	Driftless Area Land Conservancy	550,000	275,000 ^a	7,177		X
Jefferson/Oakland	Dairy	225	Jefferson County	228,000	114,000 ^a	3,754		X
Jefferson/Palmyra, Sullivan	Beef, poultry	251	Drumlin Area Land Trust	482,500	241,250 ^a	3,206	X	X
Waupaca/Farmington	Vegetables, berries	113	Waupaca County	258,768	129,384	4,228		
Waupaca/Bear Creek	Dairy, grain	347	Waupaca County	533,000	266,500	6,444		
Waupaca/Lind	Dairy	801	Waupaca County	1,663,500	738,000	9,168		
Waupaca/Lind	Dairy	261	Waupaca County	532,500	266,250	0		
Waupaca/Bear Creek	Dairy	567	Waupaca County	1,007,000	503,500	6,204		
Waupaca/Lind	Dairy	56	Waupaca County	102,135	51,067	0		
Waupaca/Lind	Dairy	238	Waupaca County	435,033	217,517	6,308		
Waupaca/Scandinavia	Dairy	101	Waupaca County	171,300	85,650	0		
Waupaca/Scandinavia	Dairy	<u>820</u>	Waupaca County	<u>1,385,000</u>	<u>692,500</u>	<u>12,000</u>		
Subtotal – Closed Easements		5,043		\$9,506,436	\$4,576,818	\$79,358		
Closing Pending								
Dane/Dunn	Tobacco, corn, soy	81	Town of Dunn, NHLT	254,900	127,450 ^a	5,000 ^b	X	X
Iowa/Brigham	Dairy	<u>438</u>	Driftless Area Land Conservancy	<u>855,000</u> ^c	<u>427,500</u> ^c	<u>5,000</u> ^b		X
Subtotal – Pending		519		\$1,109,900	\$554,950	\$10,000 ^b		
Total – All Easements		5,562		\$10,616,336	\$5,131,768	\$89,358		
Withdrawn from Program								
Jefferson/Aztalan	Crop	121	Jefferson County, NHLT	\$268,000	--	--		X

NOTE: For all easements, the total purchase cost to DATCP has been 50% of the appraised value shown.

^a Easement has used, or is expected to use, state PACE and federal FRPP funding.

^b Estimate of transaction costs. Reimbursed transaction costs for closed easements have averaged approximately \$5,000 in costs to DATCP over the course of the PACE program, but actual costs for pending easements may vary.

^c Easement remains subject to a second appraisal, as of November 1, 2012, and final purchase cost to DATCP is undetermined.

APPENDIX 7

2011 Purchase of Agricultural Conservation Easements (PACE) Selection

Criteria to Rank Proposed Easements for PACE Grants

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

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

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

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

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

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

Maximum number of points from Section 1: 50

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

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

Maximum number of points from Section 2: 45

SECTION 3: Development Pressure
(45 Total Possible Points)

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

Maximum number of points from Section 3:	45
---	----

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

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

SECTION 5: Community Support
(15 Total Possible Points)

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

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

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

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

SECTION 7: Qualitative Points
(15 Total Possible Points)

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

Maximum number of points from Section 7: 15

MAXIMUM NUMBER OF POINTS FROM SECTIONS 1 THROUGH 7: 200

APPENDIX 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																																																																																																				
<u>Step 1: Calculate "Income Factor"</u>																																																																																																					
	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 10%;"></th> <th style="width: 10%;"></th> <th style="width: 10%;"></th> <th style="width: 10%;"></th> <th style="width: 10%;"></th> <th style="width: 10%;"></th> <th style="width: 10%;"></th> <th style="width: 10%;"></th> <th style="width: 10%;"></th> </tr> <tr> <td></td> <td></td> <td style="text-align: center;"><u>Income</u></td> <td></td> <td></td> <td></td> <td style="text-align: center;"><u>Factor</u></td> <td></td> <td></td> <td></td> </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</td> <td style="text-align: right;">\$5,000</td> <td style="text-align: center;">=</td> <td></td> <td style="text-align: right;">\$0</td> <td></td> <td></td> <td></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</td> <td style="text-align: right;">5,000</td> <td style="text-align: center;">=</td> <td></td> <td style="text-align: right;">350</td> <td></td> <td></td> <td></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</td> <td style="text-align: right;">5,000</td> <td style="text-align: center;">=</td> <td></td> <td style="text-align: right;">450</td> <td></td> <td></td> <td></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</td> <td style="text-align: right;">5,000</td> <td style="text-align: center;">=</td> <td></td> <td style="text-align: right;">550</td> <td></td> <td></td> <td></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</td> <td style="text-align: right;"><u>3,000</u></td> <td style="text-align: center;">=</td> <td></td> <td style="text-align: right;"><u>510</u></td> <td></td> <td></td> <td></td> </tr> <tr> <td>27% of 6th \$5,000 of household income</td> <td></td> <td></td> <td></td> <td></td> <td></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> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td style="text-align: right;">TOTAL</td> <td></td> <td style="text-align: right;">\$23,000</td> <td></td> <td></td> <td style="text-align: right;">\$1,860</td> <td></td> <td></td> <td></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>																																																																																															
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<u>Step 2: Determine "Excessive Property Tax"</u>																																																																																																					
Eligible Property Tax - Income Factor = Excessive Property Tax	\$4,700 - \$1,860 = \$2,840																																																																																																				
<u>Step 3: Determine "Potential Credit"</u>																																																																																																					
Potential Credit equals:																																																																																																					
90% of first \$2,000 of excessive property tax	90% x \$2,000 = \$1,800																																																																																																				
plus 70% of next \$2,000 of excessive property tax	70 x 840 = <u>588</u>																																																																																																				
plus 50% of next \$2,000 of excessive property tax	Potential Credit = \$2,388																																																																																																				
<u>Step 4: Determine "Actual Credit"</u>																																																																																																					
Actual Credit equals:																																																																																																					
100% of the potential credit if the farmland is covered by county, city, village, or town zoning, a preservation agreement, and a county plan.	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.	10% x \$4,700 = \$470																																																																																																				
	\$1,910 is greater than \$470, so																																																																																																				
	Actual Credit = \$1,910																																																																																																				