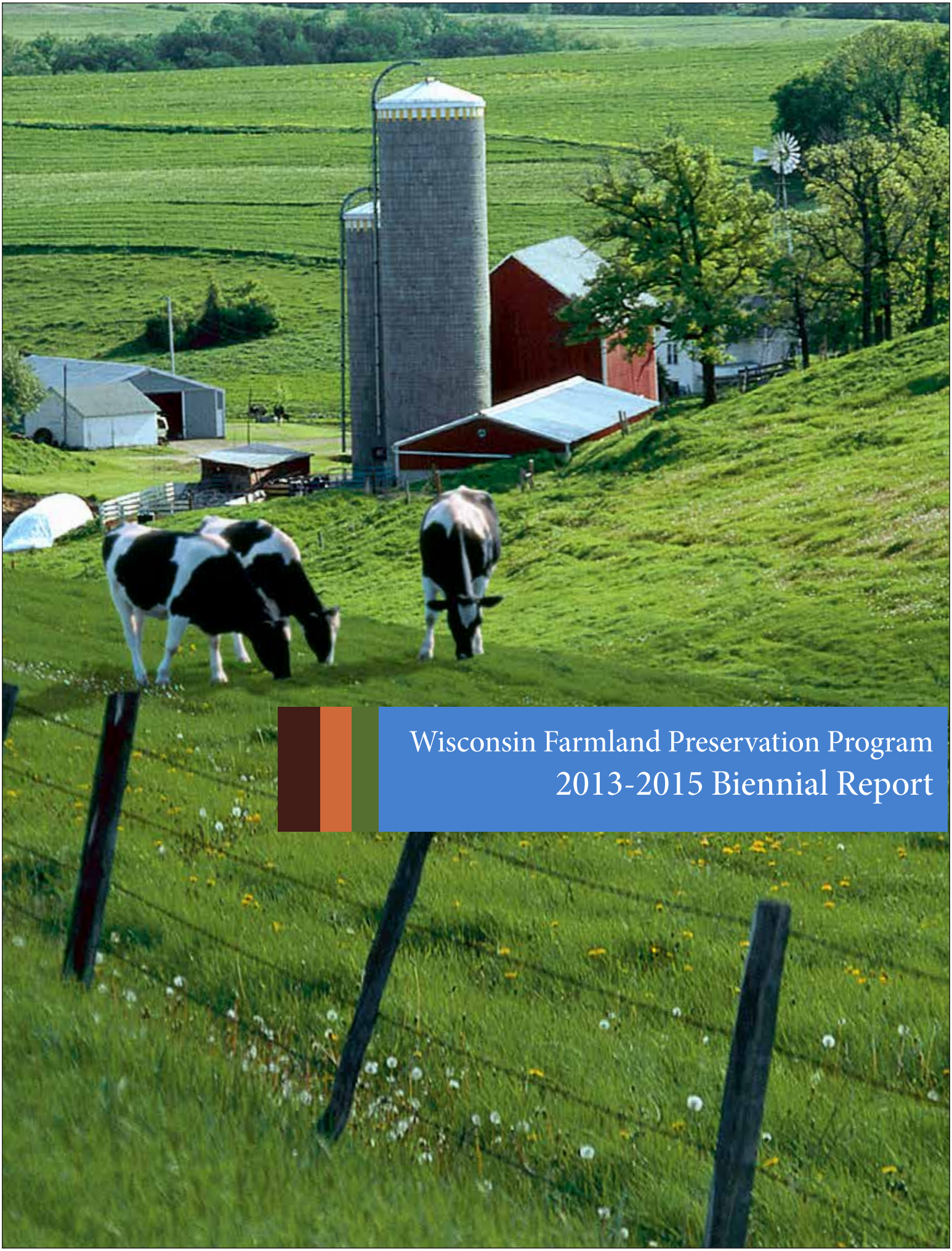

# Wisconsin Farmland Preservation Program
# 2013-2015 Biennial Report

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# Board of Agriculture, Trade and Consumer Protection

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**Department of Agriculture, Trade and Consumer Protection**
Ben Brancel, Secretary

November, 2015

Board of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive
Madison, WI 53718

Dear ATCP Board Members:

Under 2009 Wisconsin Act 28, the Wisconsin Department of Agriculture, Trade and Consumer Protection (Department) in cooperation with the Wisconsin Department of Revenue, must provide a biennial report on farmland preservation to the Board of Agriculture, Trade and Consumer Protection (Board) and the Department of Administration. This report is for the 2013-2015 biennium and succeeds the previous report by the Department submitted to the Board in December 2013.

Agriculture is a vital part of Wisconsin's economy and cultural identification. The Department has worked over the past biennium to promote development and investment in Wisconsin agriculture to help ensure that the resources are currently and will remain available for agriculture into the future. The Department worked over the past biennium to continue implementing and to expand the components of the Farmland Preservation Program, Ch. 91, Wisconsin Statutes. This includes addressing issues and concerns reported in the previous biennial report.

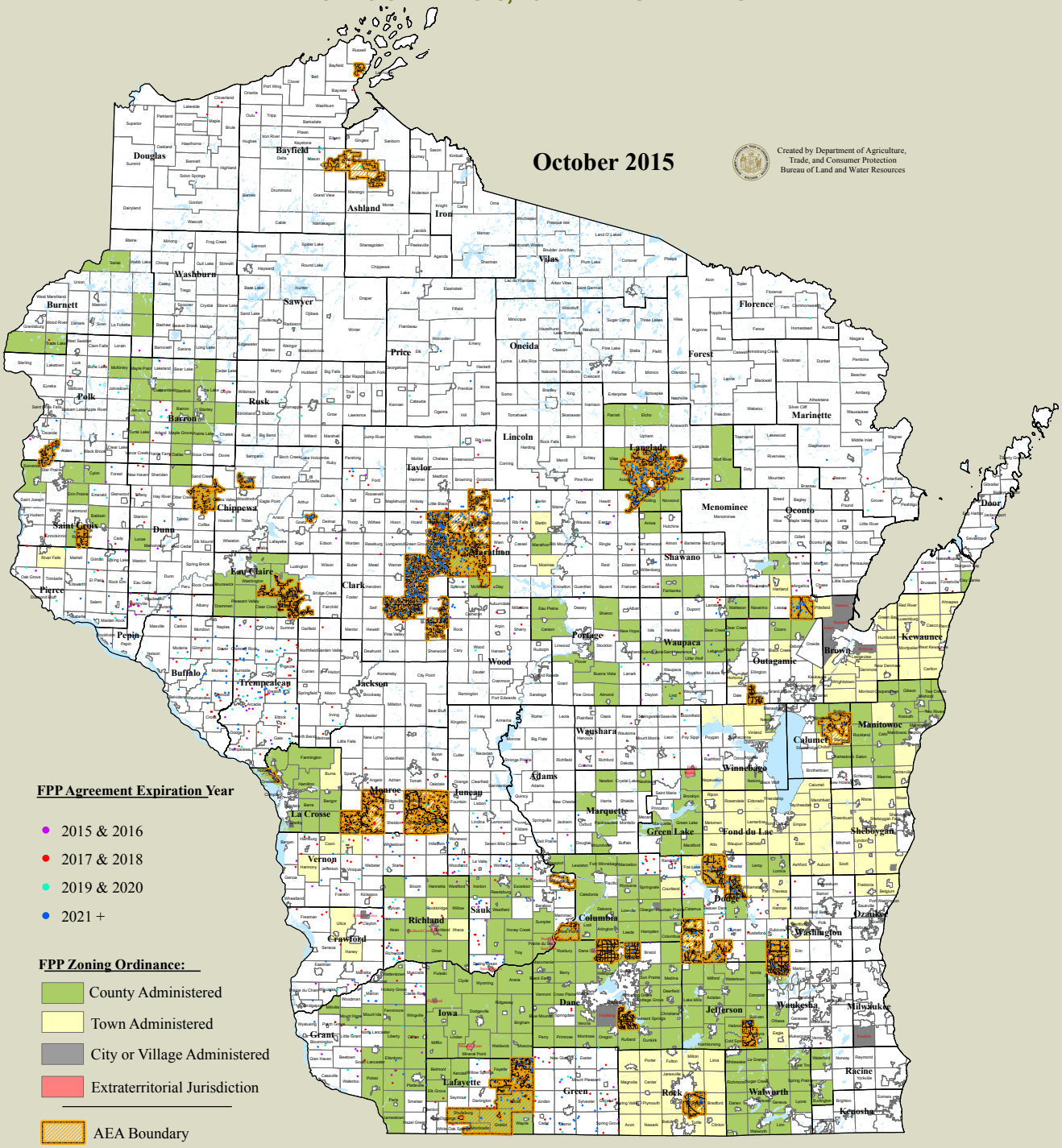
This report is submitted by the Department to satisfy the required reporting in s. 91.04, Wis. Stats. The report contains information on farmland availability, trends in farmland use, program participation by local governments and landowners, farmland preservation tax credit claim figures, adherence to soil and water conservation practice requirements, program costs and trends, and recommendations and issues identified by the department.

Sincerely,

Ben Brancel

Ben Brancel
*Secretary*

## FARMLAND PRESERVATION PROGRAM PARTICIPATION (FPP)
## ZONING ORDINANCES, AGREEMENTS AND AEAS




The map above illustrates the elements of the Farmland Preservation Program that establish tax credit eligibility for landowners: Farmland Preservation zoning (pg. 10), Agricultural Enterprise Areas (Pg.13), and Farmland Preservation agreements (pgs. 14-15). Farmland Preservation Agreements enrolled in the program both before and after the Farmland Preservation law (Chapter 91, Wisconsin Statutes) changed in 2009 are shown on the map. These elements of the program implement local goals and policies for furthering agricultural preservation as established in their respective county Farmland Preservation plans. For a map depicting updated Farmland Preservation plans, see Figure 2, pg. 7.

# Farmland Trends

The need to preserve farmland is critically important to meet current and future demands for food and fiber, both locally and globally. This same farmland also is the foundation for jobs and a driver of local economies throughout the state of Wisconsin. Through the farmland preservation program, local communities and individual owners of farmland can make decisions to protect and preserve farmland while also affording some protection to state soil and water resources. These efforts are imperative for preserving an agricultural land base that ensures food production, fuels local economies, and maintains the cultural integrity of rural Wisconsin.

Agriculture is an $88 billion dollar industry in Wisconsin. In 2012, it accounted for nearly 12% of total employment in the state. Industry influence is far reaching and has a significant impact, even in urbanized regions.[1] Yet, even where agriculture continues to be a force in the development and diversification of local economies, the state continues to experience farmland loss. Spatial analysis from the Center for Land Use Education at UW-Stevens Point suggests that between 1992 and 2010 the annual rate of farmland conversion to development in Wisconsin was 22,032 acres per year,[2] roughly the size of a thirty-six section town. An analysis of the National Land Cover Database (NLCD) data for 2001 to 2011, which was published during the biennium, identifies where the loss of productive agricultural land is occurring around the state.[3] Figure 1 illustrates a summary of NLCD land cover change from cultivated crop or pasture to developed land uses by minor civil division in Wisconsin between 2001 and 2011. **Figures 1a-1b** illustrate two areas where concentrated land use change is occurring in areas that local communities have prioritized for agricultural preservation. These changes in land use have the potential to create conflicts between farms and non-farms.

USDA prepares a comprehensive agricultural census every 5 years, soliciting information from farmers and producers in every county in the country. According to the most recent Census for agriculture, in 2012, Wisconsin landowners self-reported 4 percent less land in farms than in 2007. During the same period, the total number of reported farms decreased by 11 percent while the average size of farms increased by 8 percent to 209 acres.[4]

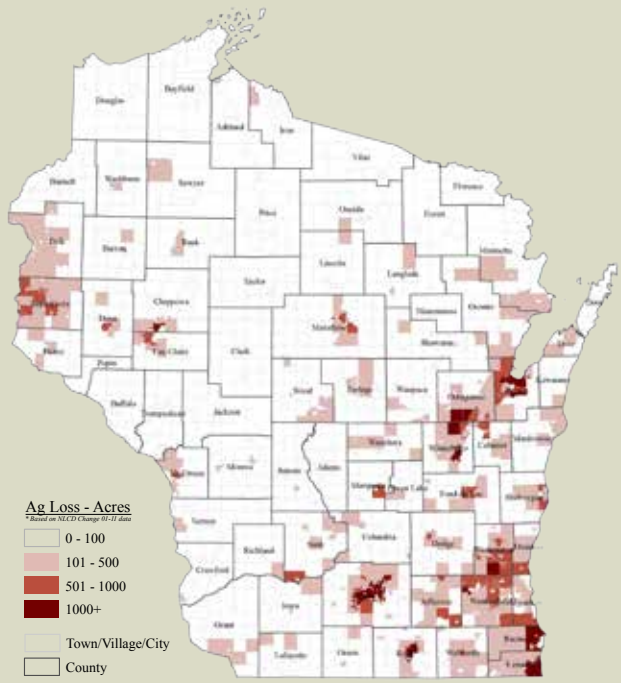


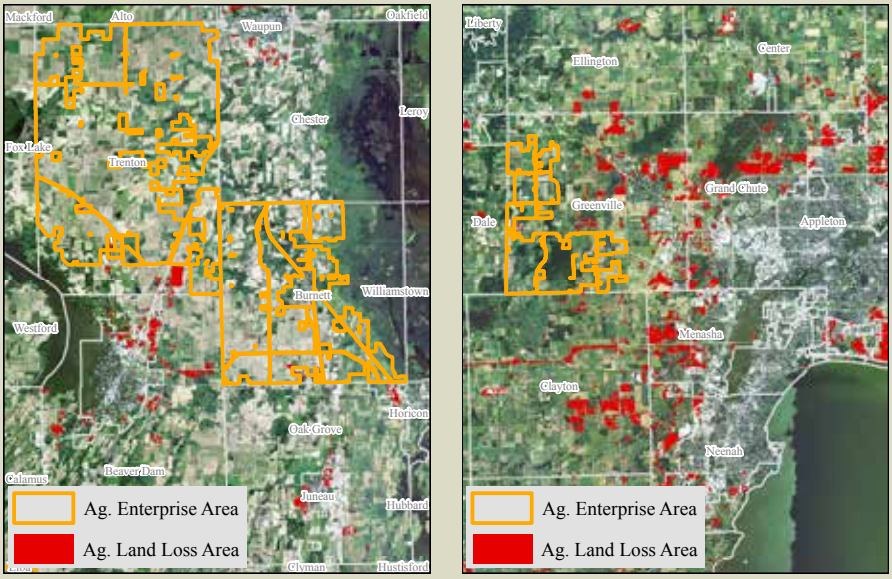

*Figure 1: Agricultural land loss in acres by minor civil division 2001-2011; land cover change data compiled from National Land Cover Database.*

The cost of buying land that will remain in agricultural use has also increased over the biennium. In 2014, the average price per acre of farmland sold that would continue in agricultural use rose 12.9% from 2013 to reach $5,407 per acre.[5]

Meanwhile, the average price for farmland diverted to non-agricultural use decreased by nearly 12% between 2013 and 2014 to $5,846. (See **Figure 1c** for data on total agricultural sales in Wisconsin, including both land remaining in agricultural use and land converted to non-agricultural use.) The biennium also saw an increase in the average price for renting non-irrigated cropland, according to the National Agricultural Statistics Service. The average price per acre rose $120 from 2013 to $130 in 2014.[6]

1 Deller, Steven. "Contribution of Agriculture to the Wisconsin Economy: Updated for 2012." (2015): n. pag. Web.
2 "Losing Ground: Tracking the Rate of Farmland Loss in Wisconsin Counties 1992 to 2010." UW-Stevens Point Center for Land Use Education, Apr. 2012. Web.
3 U.S. Geological Survey, 20140331, NLCD 2001-2011 Land Cover From to Change index (2011 Edition): None None, U.S. Geological Survey, Sioux Falls, SD.
4 "2012 Census for Agriculture: State Profile Wisconsin." 2012 Census for Agriculture. U.S. Department of Agriculture, n.d. Web.
5 "Wisconsin Agricultural Land Sales 2014." United States Department of Agriculture- National Agricultural Statistics Service Cooperating with Wisconsin Department of Agriculture, Trade, and Consumer Protection, Aug. 2015. Web.
6 "Wisconsin Ag News- County Cash Rent." United States Department of Agriculture- National Agricultural Statistics Service, Sept. 2014. Web.

## LAND COVER CHANGE: SUBSETS OF AGRICULTURAL LAND LOSS




*Figures 1a-b: Representative land cover change, subsets of Agricultural Land Loss 2001-2011.*

*a: Trenton and Burnett AEAs, Dodge County*

*b: Greenville Greenbelt AEA, Outagamie County*

Figures 1a and b show added detail of areas from Figure 1 *Agricultural Land Loss* near three designated agricultural enterprise areas in portions of Dodge County and Outagamie County. These close-ups show where the loss of farmland is occurring next to areas locally prioritized for agricultural preservation, suggesting the potential for future land use conflicts.

## TOTAL AGRICULTURAL LAND SALES

**TOTAL AGRICULTURAL LAND SALES: WISCONSIN, 2010-2014 FOR LANDS WITH & WITHOUT IMPROVEMENTS**

| YEAR | AGRICULTURAL LAND CONTINUING IN AGRICULTURAL USE | | | AGRICULTURAL LAND DIVERTED TO OTHER USES | | | TOTAL OF ALL AGRICULTURAL LAND | | |
|---|---|---|---|---|---|---|---|---|---|
| | Number of Transactions | Acres Sold | Dollars per acre | Number of Transactions | Acres Sold | Dollars per acre | Number of Transactions | Acres Sold | Dollars per acre |
| 2010 | 1,425 | 103,619 | 3,861 | 128 | 4,899 | 5,909 | 1,553 | 108,518 | 3,953 |
| 2011 | 1,784 | 129,108 | 4,288 | 103 | 3,764 | 5,818 | 1,887 | 132,872 | 4,332 |
| 2012 | 2,194 | 144,971 | 4,615 | 88 | 4,277 | 7,229 | 2,282 | 149,248 | 4,690 |
| 2013 | 1,817 | 116,979 | 4,791 | 98 | 4,419 | 6,638 | 1,915 | 121,398 | 4,859 |
| 2014 | 1,511 | 97,419 | 5,407 | 117 | 5,846 | 5,846 | 1,628 | 102,136 | 5,428 |

*Figure 1c: This data was compiled by the Wisconsin Department of Agriculture, Trade, and Consumer Protection in cooperation with the Wisconsin Department of Revenue, Bureau of Equalization for the 2014 Wisconsin Agricultural Land Sales Report.*

# Farmland Preservation Planning

Planning land for farmland preservation is the first step in making land eligible for participation in other parts of the farmland preservation program, such as farmland preservation zoning and agricultural enterprise area designation. Counties across the state continue to update their farmland preservation plans so interested farmers and local governments may take advantage of the other program components.

## Number and Location

Between 2013 and 2015, the department certified 17 plans, bringing the number of plans updated since 2009 to 39. **See Figure 2.** Much of the farmland preservation planning during the past biennium occurred in the eastern half of the state. This part of the state is experiencing increased population growth and development pressure. Planning efforts in the next biennium will primarily be in the less heavily populated counties in the north and northwest portions of the state. When the law was revised in 2009, the initial statutory schedule for plan expirations was based on anticipated projections for increase of county population density. As a result, counties facing lesser population pressure were scheduled for later plan expirations.

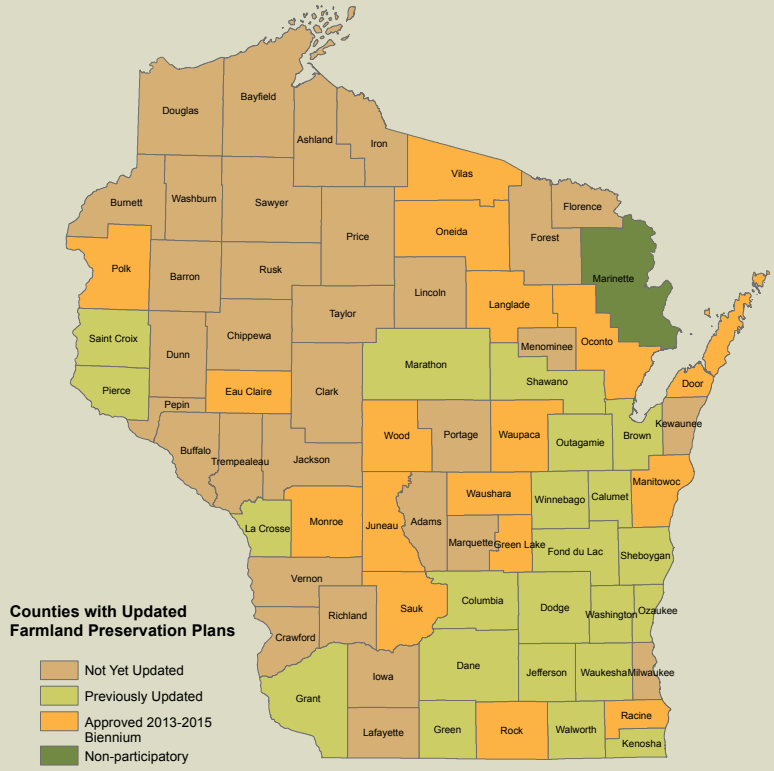



*Figure 2: Counties with updated farmland preservation plans.*

When the farmland preservation law was revised in 2009, the expectation was that approximately 14 plans would be updated and certified each year. The current schedule of county farmland preservation

plan expirations can be found in **Figure 2a.** Counties have the option to request an extension of the plan expiration date to coordinate the farmland preservation planning process with other planning or zoning efforts in the county. Many counties have used this option to receive a one or a two year extension, and as a result, the actual number of plans certified has fluctuated significantly from one year to the next. In fact, many of the plans certified during the 2013-2015 biennium were in counties which had requested a one or two-year certification extension to delay expiration until the current biennium. **Figure 2b** shows when plans were originally scheduled to expire and the resulting number of expirations following granted certification extensions.

## Plan Development

The farmland preservation planning process allows counties the opportunity to take stock of the role that agriculture plays in their local economy. Although many of the counties currently working on updating their farmland preservation plans are not traditionally considered agricultural, these counties are taking the time to consider how to best plan for the agricultural uses that are occurring within the county, such as forest management. By taking steps to plan for farmland preservation, the counties leave the

### FARMLAND PRESERVATION PLAN CERTIFICATE EXPIRATION DATES

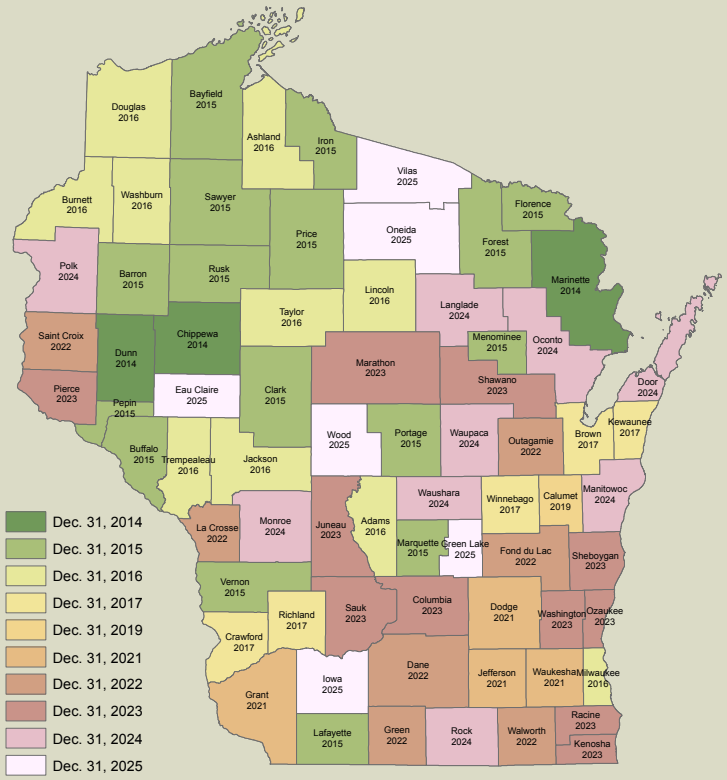



*Figure 2a: Schedule of county Farmland Preservation Plan certification expirations*

### EXTENSIONS IMPACTING FARMLAND PRESERVATION

| ORIGINAL EXPIRATION YEAR | ORIGINALLY SCHEDULED EXPIRATIONS | EXTENDED TO 2012 | EXTENDED TO 2013 | EXPIRATIONS FOLLOWING EXTENSIONS |
|---|---|---|---|---|
| 2011 | 12 | 7 | 3 | |
| | | Extended to 2013 | Extended to 2014 | |
| 2012 | 11 | 4 | 5 | 9 |
| | | Extended to 2014 | Extended to 2015 | |
| 2013 | 11 | 4 | 5 | 9 |
| | | Extended to 2015 | Extended to 2016 | |
| 2014 | 15 | 5 | 6 | 13 |
| | | Extended to 2016 | Extended to 2017 | |
| 2015 | 19 | 4 | 2 | 23 |
| **TOTAL EXPIRATIONS: 68** | **TOTAL EXTENSIONS: 45** | **EXPIRATIONS AFTER EXTENSIONS: 54** | | |

*Figure 2b: Extensions impacting farmland preservation plan extensions for the 2013-15 biennium. The table quantifies the number of expirations initially scheduled for each year when the farmland preservation law was updated, the number of one and two-year expiration extensions granted for each calendar year and the actual number of plan expirations for the calendar year after extension requests were granted.*

door open for future participation in the program. In fact, some northern counties have expressed local interest in applying farmland preservation zoning and developing agricultural enterprise areas.

Despite the potential benefits of planning for farmland preservation, the decision to develop and certify a farmland preservation plan remains a local decision. In 2014, Marinette became the first county to decide not to update their farmland preservation plan. As a result, landowners in the county cannot participate in other elements of the farmland preservation program unless the county chooses to update its plan at a later date.

As a county considers how to develop a farmland preservation plan, they must identify the local areas important for the future of agriculture. These decisions must be based on the application of objective criteria, as required by ATCP 49. ATCP 49, the first administrative rule governing the farmland preservation program, went into effect on January 1, 2014. The criteria a county uses to identify a farmland preservation area must be tied to characteristics of the land itself and must not be based primarily on landowner preference to participate in the program. While citizen input is an integral part of the planning process, plans based solely on landowner preference result in plan areas that contain isolated pockets of farmland. Because productive agriculture may not be compatible with nonagricultural uses, these islands do little to protect farmland in the long term. Consequently, counties must consider a variety of objective factors to identify their farmland preservation area. Applying objective criteria has resulted in more contiguous blocks of farmland being preserved. **Figure 2c** shows the most widely used criteria for including and excluding lands within farmland preservation plan areas.

**MOST COMMONLY APPLIED CRITERIA FOR IDENTIFYING FP PLAN AREA**

| MOST COMMONLY APPLIED INCLUSIONARY CRITERIA | MOST COMMONLY APPLIED EXCLUSIONARY CRITERIA |
|---|---|
| Agricultural land use patterns | Lands planned for development within the next 15 years |
| (Quality) agricultural soils | Lands inside municipal boundaries |
| Consistency with applicable Comprehensive Plan future land use areas | Lands not currently in agriculture or open space use |
| | Lands ineligible for claiming the tax credit |
| Zoning (current) | Lands with poor soil types |
| Agricultural infrastructure | Lands with inconsistent uses (zoning or infrastructure) |
| Acreage: large and contiguous | Lands within a sewer service area or sanitary district |
| LESA Scores | Lands with small parcel size |
| Lands in other protected area (consistent with plan area) | Lands zoned for intensive non-agricultural uses |

*Figure 2c: Most commonly applied objective criteria for delineating county farmland preservation plan areas.*

# Farmland Preservation Zoning

Once a county updates the underlying farmland preservation plan, local zoning authorities may choose to update an existing farmland preservation zoning ordinance or adopt a new ordinance. These ordinances limit allowable uses to agricultural uses and other compatible uses. ATCP 49 provides clarity to the types of uses allowed in a certified district. The rule also clarifies that 80% of land planned for farmland preservation must be zoned for farmland preservation in the certified zoning ordinance to meet the statutory requirement for consistency.

## Number and Location

For a list of farmland preservation zoning ordinances that the department certified between 2013 and 2015 see **Figure 3 (page 11).** These ordinances may be administered by counties, towns, cities, or villages or through extraterritorial jurisdictions (**see Figure 3a**). As in the 2011-2013 biennium, most of the zoning ordinances that the department has certified in the past two years have come from towns. The department has also certified eight county zoning ordinances and two county ordinance map amendments during the biennium. Currently, there are just over 170 certified farmland preservation ordinances around the state covering roughly 400 towns, cities and villages.

Although most of the ordinances certified in the past two years are updates to existing ordinances, the department has also certified new farmland preservation zoning ordinances covering 10 new towns since 2013. For example, Waupaca County's farmland preservation ordinance, certified in 2015, added 7 new towns to the program. The department expects to certify ordinances covering 7 additional towns by the end of 2015. In addition, staff fielded questions from other local governments with an interest in adopting a farmland preservation zoning ordinance, suggesting that more new towns will be covered by certified ordinances in the next biennium.

Similar to farmland preservation plans, the department continues to grant certification expiration extensions for farmland preservation zoning ordinances. During this biennium, the department granted 61 ordinance extensions. Often, these requests reflect a delayed expiration of the county's farmland preservation plan certification date. In some instances where the expiration of an ordinance occurred before the expiration of the county plan, extensions have allowed towns and counties to better coordinate their planning and zoning efforts. **See Figure 3b** for an updated depiction of ordinance expirations (September 2015).

**JURISDICTIONS WITH A CERTIFIED FARMLAND PRESERVATION ZONING ORDINANCE**

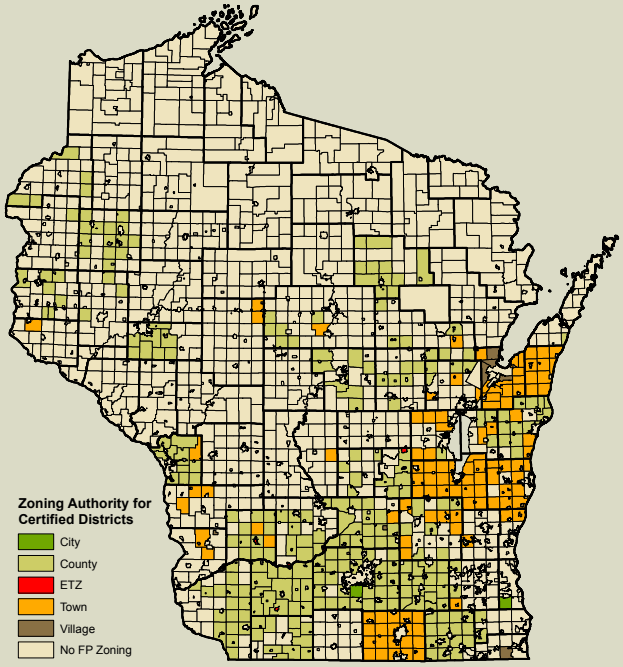



*Figure 3a: Cities, counties, towns and villages with certified farmland preservation ordinances.*

**FARMLAND PRESERVATION ZONING ORDINANCE CERTIFICATION EXPIRATIONS**

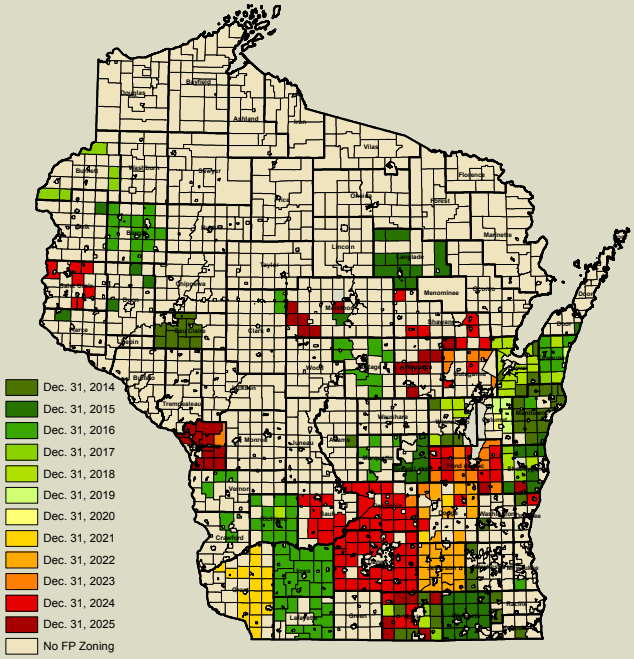



*Figure 3b: Schedule of farmland preservation zoning ordinance expirations.*

## CERTIFIED FARMLAND PRESERVATION ZONING ORDINANCES

| COUNTY | JURISDICTION | ZONING AUTHORITY | CERTIFICATION TYPE |
|---|---|---|---|
| Brown | Town of Bellvue | Town | Full |
| Brown | Town of Eaton | Town | Full |
| Brown | Town of Glenmore | Town | Full |
| Brown | Town of Hobart | Village | Full |
| Brown | Town of Holland | Town | Full |
| Brown | Town of Howard | Town | Full |
| Brown | Town of Humboldt | Town | Full |
| Brown | Town of Ledgeview | Town | Full |
| Brown | Town of New Denmark | Town | Full |
| Brown | Town of Pittsfield | Town | Full |
| Brown | Village of Suamico | Village | Full |
| Brown | Town of Scott | Town | Full |
| Brown | Town of Wrightstown | Town | Full |
| Calumet | Calumet County | County | Text Amendment |
| Clark | Town of Mayville | Town | Full |
| Columbia | Columbia County | County | Full |
| Columbia | Town of Courtland | Town | Full |
| Dane | Dane County | County | Full |
| Dane | Village of Dane | Village | Full |
| Dane | City of Fitchburg | City | Full |
| Dodge | Dodge County | County | Map Amendment |
| Dodge | Town of Elba | Town | Full |
| Dodge | Town of Fox Lake | Town | Full |
| Dodge | Town of Williamstown | Town | Full |
| Fond du Lac | Town of Ashford | Town | Full |
| Fond du Lac | Town of Eden | Town | Full |
| Fond du Lac | Town of Friendship | Town | Full |
| Fond du Lac | Town of Fond du Lac | Town | Full |
| Fond du Lac | Town of Forest | Town | Full |
| Fond du Lac | Town of Marshfield | Town | Full |
| Fond du Lac | Town of Metomen | Town | Full |
| Fond du Lac | Town of Osceola | Town | Full |
| Fond du Lac | Town of Ripon | Town | Full |
| Fond du Lac | Town of Rosendale | Town | Full |
| Fond du Lac | Town of Springvale | Town | Full |
| Fond du Lac | Town of Waupun | Town | Full |
| Lacrosse | Lacrosse County | County | Full |
| Lacrosse | Town of Burns | Town | Full |
| Marathon | Marathon County | County | Full |
| Outagamie | Town of Black Creek | Town | Full |
| Outagamie | Town of Hortonia | Town | Full |
| Ozaukee | Town of Belgium | Town | Full |
| Rock | Town of Avon | Town | Full |
| Rock | Town of Fulton | Town | Full |
| Rock | Town of Janesville | Town | Full |
| Rock | Town of Lima | Town | Full |
| Rock | Town of Union | Town | Full |
| Rock | Town of Plymouth | Town | Full |
| Rock | Town of Porter | Town | Full |
| Rock | Town of Rock | Town | Full |
| Rock | Town of Spring Valley | Town | Full |
| Saint Croix | Saint Croix County | County | Full |
| Sauk | Sauk County | County | Full |
| Sauk | Sauk County | County | Map Amendment |
| Shawano | Shawano County | County | Full |
| Shawano | Town of Hartland | Town | Full |
| Sheboygan | Town of Sherman | Town | Full |
| Walworth | Walworth County | County | Full |
| Waupaca | Waupaca County | County | Full |
| Winnebago | Town of Vinland | Town | Full |

*Figure 3: Farmland preservation zoning ordinances certified in the 2013-2015 biennium.*

## Rezoning

Under s. 91.48, Stats., local governments are required to report on the number and acres of rezone requests from a certified farmland preservation district to another district approved during the preceding year. In 2013, 4,450 acres were rezoned out of a certified farmland preservation zoning district. In 2014 this number more than doubled to 9,500 acres. Acres rezoned, however, were not distributed evenly among participating jurisdictions. Reports indicate that a fraction of the political subdivisions granted rezones from their certified farmland preservation zoning districts. **See Figure 3c**. For example, while 98 of the 177 jurisdictions reported zero rezones for 2013, 14 showed more than 100 acres removed from a certified district. There may be a number of different factors contributing to a higher number of rezones in one jurisdiction over another, including higher demand for nonagricultural development or greater leniency for rezoning land in certain jurisdictions.

**2013-2015 BIENNIUM REZONES BY JURISDICTION (ACRES PER ZONING AUTHORITY)**

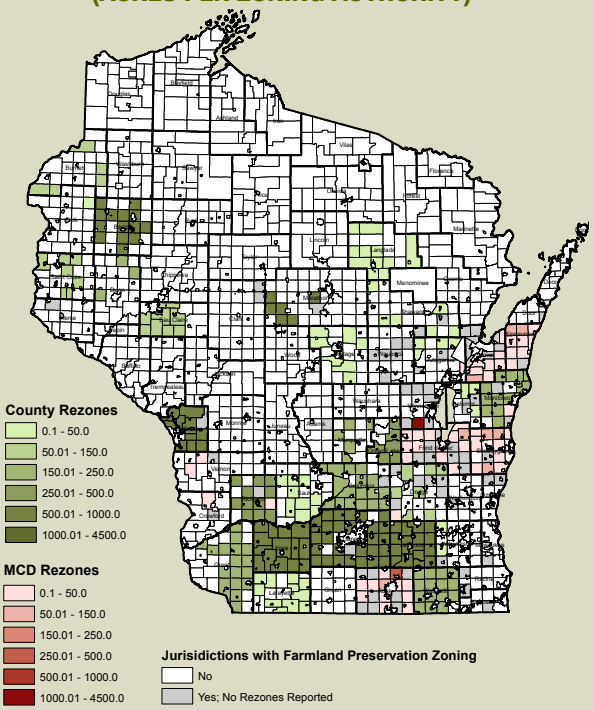



*Figure 3c: Acres of rezones from certified farmland preservation districts for calendar years 2013 and 2014.*

## Zoning Innovations

In the past two years, the department has begun to see jurisdictions employing new approaches to farmland preservation. Some of this innovation may be attributed to the passage of ATCP 49, which allows local governments to employ locally developed density standards in their farmland preservation zoning ordinances if the criteria are found to be as restrictive as those enumerated in chapter 91.

The Town of Sherman in Sheboygan County was the first town to adopt a farmland preservation zoning ordinance allowing limited nonfarm density under the provision in ATCP 49. The town wished to adopt an approach that would be easy for landowners to understand as well as for the town to administer and track. With the help of UW Extension, the town crafted three districts for certification:

**A-1:** Intended for large agricultural operations; maintain, preserve and enhance rural open space lands (20 acres or more)

**A-2:** Encourage small farms to maintain and preserve open space lands (between 3.0 and 19.99 acres)

**A-1-PR:** Accommodates parcel remnants of farmland or open space, but prohibits residences (no acreage minimum)

A landowner with at least 20 acres who wishes to build a residence on a smaller parcel will rezone his/her property into two of the other certified districts. One district limits future splits and the other district prevents the building of additional residences. Through this process the town was able to show that if every landowner were to take advantage of the maximum number of allowable building rights, fewer residences would be built in the town than if they imposed chapter 91's density restriction through the base farm tract. The town's approach made it easier for landowners to understand restrictions applied to their land, and for the town to track the number of building rights remaining on the land.

Waupaca County also undertook an alternative approach to farmland preservation zoning. The county adopted a farmland preservation zoning ordinance as an overlay district that met chapter 91 requirements. The overlay is placed on top of existing agricultural districts, which allows for continued agricultural use but prohibits nonagricultural development that is inconsistent with chapter 91 standards. The overlay district follows the county's farmland preservation plan area boundary, which is based on land use characteristics predictive of future agricultural use. Through this thoughtful approach, the county now has seven towns in the county covered by the certified district.

Representatives from each of these local governments discussed their ordinances in greater detail in the DATCP-hosted webinar "Farmland Preservation Overlay and Base Farm Tract Alternatives[6]".

[6] https://datcp-wi.adobeconnect.com/p1sk8iv7w9d/

# Agricultural Enterprise Areas (AEAs) & Farmland Preservation Agreements

The department designates an agricultural enterprise area (AEA) after evaluating local petitions developed through the cooperation of landowners and local governments. The AEA designation is intended to support local land use policies and plans, encourage preservation of agricultural land use, and promote the agricultural economy. Since 2009, 31 AEAs have been designated. **See Figure 4.** These 31 AEAs cover 1 million acres in portions of 23 counties and 92 towns. Petitions requesting the designation have been signed by nearly 1,400 landowners. Agricultural production within the 31 designated areas is representative of the state's diverse agricultural industry and includes row crops, dairy products, fruit, livestock, specialty vegetables, and organic products. The AEAs range in size from 1,640 acres to 225,511 acres, although more

**AGRICULTURAL ENTERPRISE AREAS**

| AEA NAME | TOTAL ACRES | PERCENT COVERED BY FP AGREEMENT | AEA LOCATION (COUNTY AND TOWN) |
|---|---|---|---|
| Cadott Area AEA | 1,640 | 65% | Chippewa County: Towns of Goetz and Delmar |
| Halfway Creek Prairie AEA | 1,647 | 56% | La Crosse County: Towns of Onalaska and Holland |
| Bayfield AEA | 2,821 | 0% | Bayfield County: Town of Bayfield |
| Bloomer Area AEA | 4,380 | 11% | Chippewa County: Town of Bloomer |
| Greenville Greenbelt AEA | 6,178 | 4% | Outagamie County: Town of Greenville |
| Rush River Legacy AEA | 8,370 | 0% | St. Croix County: Town of Rush River |
| Fairfield AEA | 9,501 | 24% | Sauk County: Town of Fairfield |
| Squaw Lake AEA | 9,942 | 2% | Polk and St. Croix Counties: Towns of Alden, Farmington, Somerset. Star Prairie |
| Town of Dunn AEA | 10,038 | 0% | Dane County: Town of Dunn |
| Windsor AEA | 10,775 | 9% | Dane County: Town of Windsor |
| Scuppernong AEA | 14,015 | 3% | Jefferson County: Towns of Cold Spring, Hebron, Palmyra, Sullivan |
| Burnett AEA | 14,736 | 18% | Dodge County: Town of Burnett |
| West Point AEA | 15,888 | 3% | Columbia County: Town of West Point |
| Shields-Emmet AEA | 16,041 | 2% | Dodge County: Towns of Shields, Emmet |
| Friends in Agriculture AEA | 16,705 | 12% | Clark County: Towns of Fremont and Lynn |
| Vienna-Dane-Westport AEA | 20,663 | 0% | Dane County: Towns of Vienna, Dane, Westport |
| La Prairie AEA | 20,698 | 8% | Rock County: Towns of La Prairie, Turtle |
| Golden Triangle AEA | 21,394 | N/A | Eau Claire County: Towns of Washington, Lincoln, Otter Creek, Bridge Creek |
| Maple Grove AEA | 21,669 | 12% | Shawano County: Town of Maple Grove |
| Town of Grant AEA | 25,920 | 3% | Dunn and Chippewa Counties: Towns of Grant, Colfax, Sand Creek, Otter Creek, Auburn, Cooks Valley |
| Trenton AEA | 26,492 | 6% | Dodge County: Town of Trenton |
| Hilbert Ag Land on Track AEA | 28,217 | 8% | Calumet County: Towns of Brillion, Chilton, Rantoul, Woodville |
| Ashippun-Oconomowoc AEA | 28,833 | 1% | Dodge and Waukesha Counties: Towns of Ashippun, Oconomowoc |
| Elba-Portland AEA | 38,571 | 7% | Dodge County: Towns of Elba, Portland |
| Fields, Waters, and Woods AEA | 41,212 | 1% | Ashland and Bayfield Counties: Towns of Marengo, Ashland, White River, Kelly; Bad River Reservation |
| Pecatonica AEA | 45,776 | 7% | Lafayette County: Towns of Argyle, Blanchard, Lamont |
| Scenic Ridge and Valley AEA | 62,494 | N/A | Monroe County: Towns of Jefferson, Portland, Wells |
| Antigo Flats AEA | 74,104 | 38% | Langlade and Marathon Counties: Towns of Ackley, Antigo, Neva, Peck, Polar, Price, Rolling, Vilas, Harrison |
| The Headwaters of Southeast Monroe County AEA | 86,306 | 0% | Monroe County: Towns of Clifton, Glendale, Wellington, Wilton |
| Southwest Lead Mine Region AEA | 103,143 | 3% | Lafayette County: Towns of Gratiot, Monticello, Shullsburg, Wiota |
| Heart of America's Dairyland AEA | 225,511 | 21% | Clark County: Towns of Mayville, Colby, Unity, Beaver, Loyal, Weston, York; Marathon County: Towns of Brighton, Hull, Frankfort, Holton, Johnson, Bern, McMillan, Eau Pleine |

*Figure 4: Agricultural Enterprise Areas size, location and percentage of land area covered by farmland preservation agreements.*

than half of the AEAs are less than 40,000 acres. A statutory change in 2014 increased the state's authority to designate agricultural enterprise areas from one million to two million acres.

## Farmland Preservation Agreements

Landowners within an AEA can receive tax credits of $5 per acre (or $10 per acre if also covered by farmland preservation zoning) in exchange for signing a farmland preservation agreement. By signing the agreement, the landowner agrees to keep their land in agricultural use for at least 15 years and agrees to meet state standards for soil and water conservation. Since July 1, 2009, nearly 500 farmland preservation agreements have been entered into covering over 100,000 acres of land within designated AEAs. This is about 11% of the total eligible acres in 2015. **See Figure 4a.**

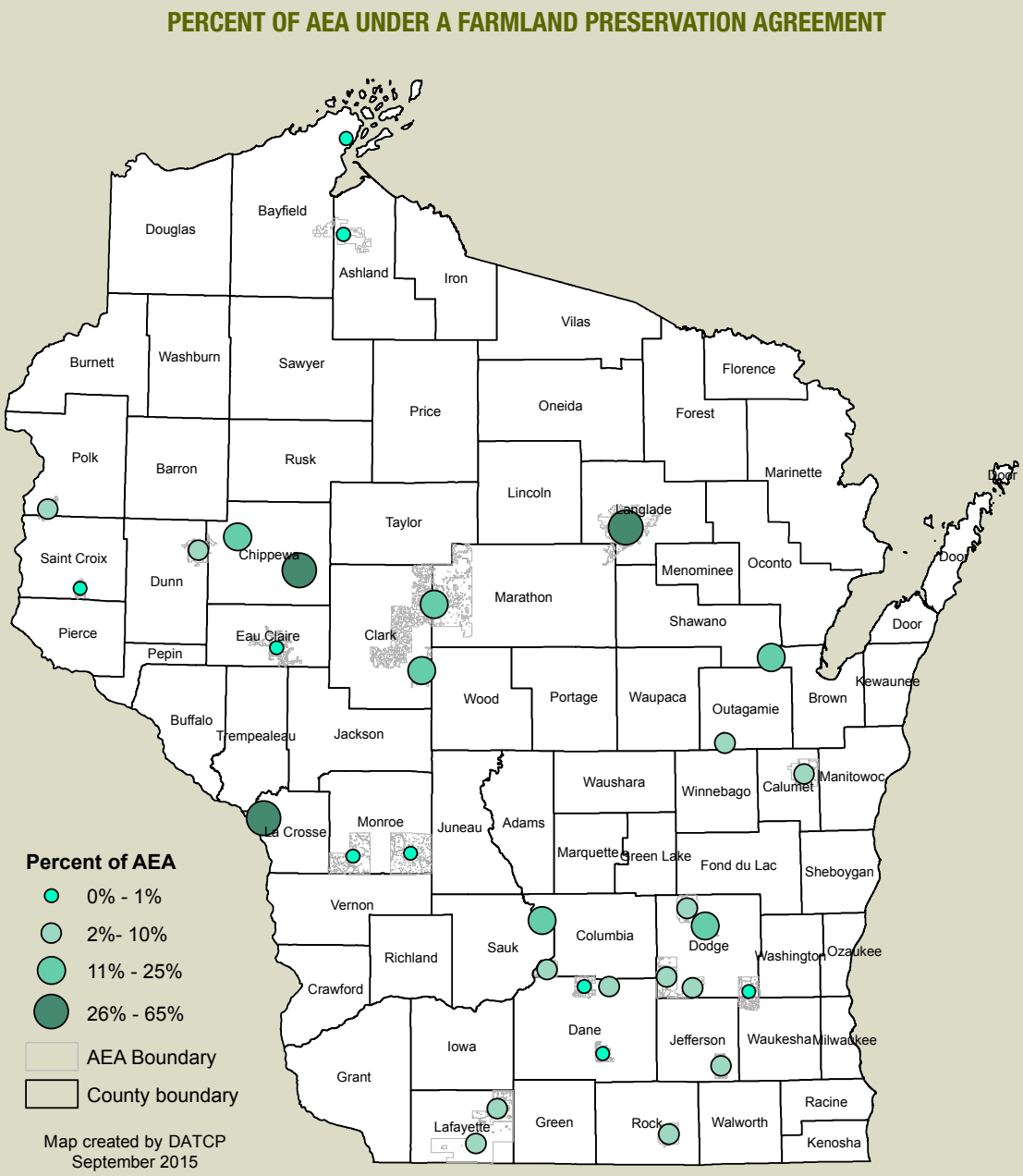



*Figure 4a: Percent of designated AEAs covered by farmland preservation agreements.*

## Pre-2009 Farmland Preservation Agreements

Prior to the creation of the agricultural enterprise area program in July 2009, owners of farmland in Wisconsin were eligible to sign a farmland preservation agreement in most towns throughout the state. Clustering agreements within AEAs instead of permitting them anywhere within the state enables land designated for farmland preservation to better stand up to land use conflicts and encourages local agro-economic investment. Prior to July 1, 2009, there were 2,696 farmland preservation agreements statewide covering 370,969 acres. Each year, the number of agreements signed prior to 2009 decreases as the agreements expire (**See Figure 4b**). As of October 2015, 1,238 agreements signed prior to July 1, 2009 covering 202,774 acres remained in effect. After these agreements expire, these landowners may only continue to claim a farmland preservation tax credit if their local government chooses to adopt a certified farmland preservation zoning ordinance, or if the landowner has land within a designated agricultural enterprise area and the landowner signs a new agreement.

**Figure 4c** illustrates the relative density of the location of farmland preservation agreements under the pre-2009 program, including those which have expired. Based on previous program participation, high density clusters on the western border of the state

### NUMBER OF PRE-2009 AGREEMENTS EXPIRING

| CALENDAR YEAR | AGREEMENT EXPIRATIONS | |
|---|---|---|
| | NUMBER | ACRES |
| 2013 | 365 | 50,184 |
| 2014 | 275 | 38,451 |
| 2015 | 174 | 22,339 |
| 2016 | 151 | 27,830 |
| 2017 | 171 | 27,830 |

*Figure 4b: Number of pre-2009 farmland preservation agreements expiring by year, through 2017.*

### DENSITY OF PRE-2009 FARMLAND PRESERVATION AGREEMENTS

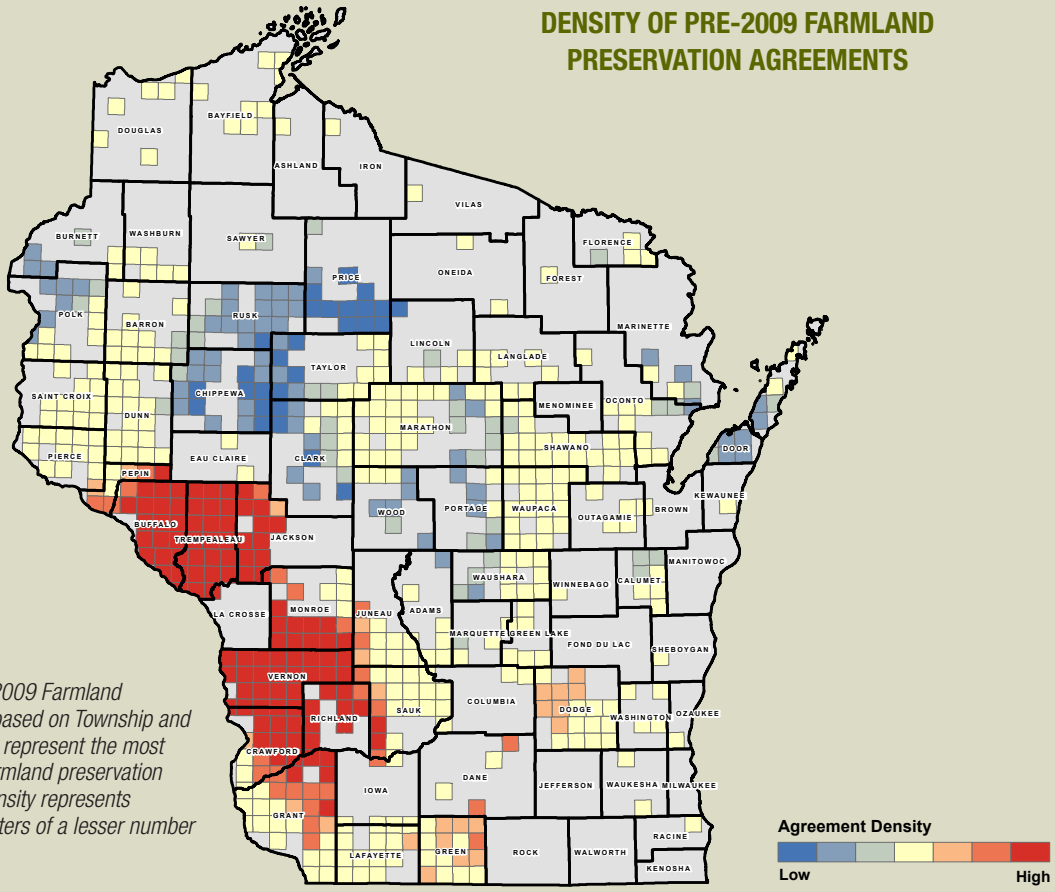



*Figure 4c: Density of Pre-2009 Farmland Preservation Agreements based on Township and Range. High value clusters represent the most concentrated density of farmland preservation agreements. Low value density represents statistically significant clusters of a lesser number of agreements.*

suggest that as agreements continue to expire, there is the potential to build on farmland preservation efforts at the local level. Landowners with acreage previously under farmland preservation agreements will no longer be able to claim the farmland preservation tax credit. **Figure 4d** provides a few examples of counties with either no currently designated AEA or limited farmland preservation zoning and highlights how agreement expirations may impact landowner potential to participate in the farmland preservation program in the future. Through development of planning and land use policies, local town and county governments can take steps to ensure opportunities for continued participation in the farmland preservation program. Many counties with historically high levels of participation through agreements, such as Crawford, Vernon, Trempealeau, and Buffalo, are scheduled to have their respective farmland preservation plans recertified by December 31, 2016. By building plans that consider past participation counties are creating opportunities to develop farmland preservation zoning, agricultural enterprise areas and agreements into the future.

**ACREAGE AND PARTICIPANTS DISAPPEARING**

| COUNTY | CURRENT FP AGREEMENTS | ACRES UNDER AGREEMENT | AEA | NUMBER OF TOWNS WITH FP ZONING |
|---|---|---|---|---|
| Buffalo | 97 | 24,208 | None | None |
| Crawford | 67 | 13,314 | None | 2 |
| Green | 124 | 18,632 | None | None |
| Jackson | 78 | 10,110 | None | None |
| Trempealeau | 179 | 27,736 | None | None |
| Vernon | 231 | 27,268 | None | 3 |

*Figure 4d: Acreage and participants disappearing from the farmland preservation program.*

# Farmland Preservation Tax Credit Claims

Landowners whose land is covered by a farmland preservation agreement or a certified farmland preservation zoning ordinance may be eligible to claim an income tax credit. Landowners may claim the farmland preservation tax credit by filing either schedule FC-A or schedule FC. Landowners use schedule FC-A if their land is located in a farmland preservation zoning district or is covered by a farmland preservation agreement signed after July 1, 2009. The landowners are eligible to receive $5 per acre for land covered by a post-2009 agreement, $7.50 per acre for land located within a farmland preservation zoning district, and $10 per acre for land covered by an agreement and located in a farmland preservation district. Landowners use schedule FC if their land is covered by an agreement signed under the pre-2009 provisions of chapter 91. These claims are calculated based on a formula that takes into account the landowner's income and property taxes.

Because landowners may only use schedule FC if they have a pre-2009 agreement, schedule FC claims continue to decrease as these old agreements expire. As a result of these agreement expirations, overall participation in the program, as evidenced by total number of claims and total amount of credits received, has continued to gradually decrease. In both 2013 and 2014, the total number of credits claimed totaled around $18.1 million. In 2013, 13,864 landowners claimed the credit while in 2014, 13,543 claims were filed. See Figure 5. Acreage covered also decreased slightly with a net change of approximately 28,000 acres between 2013 and 2014. **Figure 5** illustrates acreage claims by county for tax year 2014. **Figure 5a** shows farmland preservation tax credits claimed using Schedules FC and FC-A for tax years 2013 and 2014.

**FARMLAND PRESERVATION ACREAGE CLAIMED FOR TAX YEAR 2014**

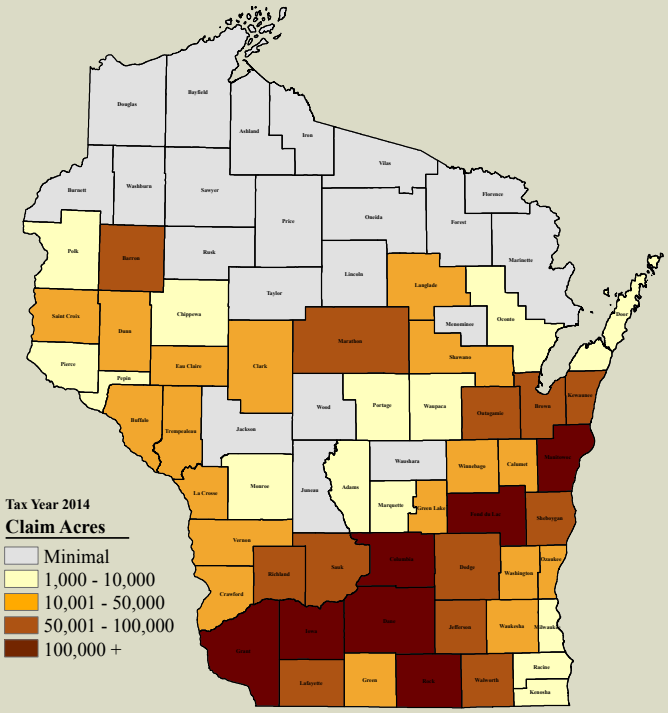



*Figure 5: Claim acres for tax year 2014 by county.*

Although there may have been decreases between the last biennium and this biennium, the number of landowners participating in the new program (filing under schedule FC-A) increased between tax year 2013 and tax year 2014. In 2013, 11,470 claims on 2.15 million acres were filed under the new program for $16.5 million. In 2014, 11,542 claims were filed on 2.18 million acres for $16.8 million.

**FARMLAND PRESERVATION TAX CREDIT CLAIMS FOR TAX YEARS 2013-2014**

| | SCHEDULE | CLAIMS | CREDITS | ACREAGE | AVG. ACRES PER CLAIM | AVG. CREDITS PER CLAIM |
|---|---|---|---|---|---|---|
| TAX YEAR 2014 | FC | 2,019 | $1,328,411 | 359,039 | 177.83 | $657.95 |
| | FC-A | 11,524 | $16,768,870 | 2,183,949 | 189.51 | $1,455.13 |
| | TOTALS | 13,543 | $18,097,281 | 2,542,988 | 187.77 | $1,336.28 |
| TAX YEAR 2013 | FC | 2,394 | $1,597,949 | 420,638 | 175.71 | $667.48 |
| | FC-A | 11,470 | $16,526,326 | 2,150,209 | 187.46 | $1,440.83 |
| | TOTALS | 13,864 | $18,124,275 | 2,570,847 | 185.43 | $1,307.29 |

*Figure 5a: Schedule FC reflects claims filed for pre-2009 agreements. Schedule FC-A covers claims for farmland preservation zoning, agreements within AEAs or modified farmland preservation agreements.*

# Conservation Compliance

Landowners who choose to participate in the farmland preservation program by claiming the farmland preservation tax credit must take steps to meet established conservation standards for soil and water. Through these conservation activities, landowners ensure that the state's investment (via the tax credit) is used to protect the state's soil and water resources while promoting agricultural land preservation. The state's soil and water conservation standards are designed to reduce soil erosion and protect the state's water resources through the effective management of manure and other nutrients that can impair water quality. The standards that the landowner must meet to claim the credit include the following:

- Ensure that cropping and pasturing on fields does not exceed the tolerable soil loss ("T")
- Develop and implement a nutrient management plan according to standards (NRCS 590 standard)
- Use the phosphorus index (PI) standards to ensure that the nutrient management plan adequately controls phosphorus runoff
- Avoid tilling within 5 feet of the edge of the bank of surface waters
- Ensure that manure storage facilities are built to standards, have no visible signs of leakage or failure, and are maintained to prevent the overflow of manure
- Ensure that an unused storage facility is closed in a way that meets standards
- Avoid staking manure in unconfined piles to areas within 300 feet of streams, or 1,000 feet from a lake, or in areas susceptible to groundwater contamination
- Divert clean water runoff away from all feedlots, manure storage areas, and barnyards in areas within 300 feet of streams, 1,000 feet of lakes or in areas susceptible to groundwater to prevent contamination of surface water and groundwater resources
- Limit access or otherwise manage livestock along lakes, streams and wetlands to maintain vegetative cover and prevent erosion.
- Prevent significant discharge of a feedlot or stored manure from flowing into lakes, streams, wetlands or groundwater
- Prevent significant discharge of process wastewater from milkhouse, feed storage, or other areas into lakes, streams, wetlands or groundwater

See "Importance of County Partners" for information on conservation compliance monitoring.

## ATCP 50

ATCP 50 is the administrative rule that governs the soil and water resource management program in the Department. The program operates through county land conservation committees, and in cooperation with the Department of Natural Resources, along with the Land and Water Conservation Board, and other state and federal agencies. In 2011, new soil and water conservation standards were added to NR 151, DNR's administrative rule for runoff management. Revisions to ATCP 50 to incorporate these standards became effective in February of 2014. In 2016, county conservation staff will start implementing the new conservation standards promulgated in ATCP 50 in 2014. Landowners may be issued performance schedules to assist them with meeting their conservation compliance obligations within 5 years.

## Importance of County Partners

Staff in the 72 county conservation departments work directly with landowners to help them understand and achieve compliance with the state soil and water conservation standards. The counties use a variety of strategies, including cost-sharing conservation practices, to encourage landowners to comply with state standards to allow participation in the farmland preservation program. Once a landowner meets the state's conservation standards, the county issues a Certificate of Compliance. This certificate is used to certify eligibility to claim the farmland preservation tax credit.

Once a landowner claims the farmland preservation tax credit, county staff are required to review the compliance status of the farm once every four years. If the county finds the landowner out of compliance with any of the standards at any time, they may issue the landowner a Notice of Noncompliance. This notice informs the landowner and the Department of Revenue of ineligibility to continue to claim the farmland preservation tax credit until compliance is again achieved. The county may also issue the landowner a Notice of Noncompliance to the landowner at their request. In the case of a voluntary notice, the landowner chooses to voluntarily refrain from claiming the farmland preservation credit.

There are currently over 13,543 farmland preservation tax credit claimants in Wisconsin. County staff are working to issue either a Certificate of Compliance or a Notice of Noncompliance to eligible landowners by the end of 2016. To date:

- 5,452 received certificates of compliance
- 1,817 received performance schedules to achieve compliance before January 1, 2016
- 630 Notices of Noncompliance have been issued since 2013

Counties develop and maintain a variety of systems for tracking current participants in the farmland preservation program. Some track participating parcels through the use of spreadsheets (50), databases (11), and others rely on geographic information systems (30). Although some of these systems are quite robust and can track landowner name, parcel number and compliance status, there is great variation across the state in the sophistication of county tracking systems.

## Trends and Developments

*Uncertainty about identity of program participants:* Because counties are required to perform compliance checks for landowners who are claiming the credit, knowing exactly who is participating in the program would allow the counties ensure that these landowners are in fact in compliance with the state conservation standards. Due to privacy restrictions, however, DOR may not provide the counties with a list of landowner names.

One approach that many counties have taken is to send DATCP a list of known program participants. DATCP compares this list to DOR's list of claimants and then sends a letter from the county to landowners who are claiming the credit but are not included on the county list. This letter reminds landowners of the conservation compliance requirement and encourages them to contact the applicable county conservation office to receive a Certificate of Compliance. Some landowners do contact the counties as a result of these letters, however the counties typically do not hear from the majority of the landowners receiving a letter.

When working with a county on a mailing, DATCP has noticed that as many as one-third of the claimants in a county are not captured on the county's eligibility list. It is difficult to determine whether these landowners are in fact claiming erroneously since DOR tracks claimants based on the address that appears on the landowner's property tax bill. This address does not always correspond to the acreage that is being claimed on, which may be located in a different county. As a result, a landowner may appear on DOR's list for a given county but be listed on a different county's list of eligible participants.

The inability to share participant names substantially hampers cooperation with the counties, and yet DATCP relies heavily on these jurisdictions to implement the conservation piece of the program. Improved communication between all stakeholders in the program would not only assist the counties with farmland preservation program activities, it would also ensure that the state is not paying income tax credits to ineligible landowners.

*Meeting the nutrient management standard:* Nutrient management plans are a tax deductible business expense that help protect our soil and water resources while simultaneously optimizing yields and nutrient applications. Farmland preservation has helped increase nutrient management planning to over 1,000,000 acres from 877,000 in 2013. Through county assistance more than 1,200 farmers wrote their own nutrient management plans in 2013. In 2015, 1,591 farmers wrote their own nutrient management plan. The largest increases in nutrient management acreage coincides with the counties that have the highest number of farmland preservation participants. Despite this increase, during the 2015 review, county staff stated that the biggest barrier to achieving and maintaining compliance or increasing participation in the program is the lack of a compliant nutrient management plan. Efforts by the department to help with nutrient management are well-received and many counties request continued support through farmer training assistance, training for county staff on the use of SnapPlus (a program to assist in the development of nutrient management plans) and on nutrient management plan development and review.

*Meeting program requirements:* One major issue identified by many counties during the 2015 review is the need for additional resources to complete farmland preservation program related work. Some counties (9) specifically requested more cost-share funding, while a larger number of counties (29) requested additional staff to assist in meeting the demands of the farmland preservation program requirements. These requirements include but are not limited to 4-year compliance status reviews, issuing Certificates of Compliance and Notices of Noncompliance, farmer training, nutrient management planning and nutrient management plan reviews.

# Program Costs, Issues, and Recommendations

## Costs

### Planning Grants

Counties continue to take advantage of planning grants available under chapter 91. These grants assist counties in preparing a farmland preservation plan by reimbursing a county for up to 50 percent (but no more than $30,000) of the costs of preparing a farmland preservation plan. In rounds three and four of the planning grant allocation the department awarded $701,878 to 32 counties.

### Tax Credits

The farmland preservation tax credit for tax year 2014 (paid in fiscal year 2015) totaled slightly more than $18 million. Less than 14,000 claimants filed claims on over 2.5 million acres. The department has continued to work with the Department of Revenue and with tax preparers to ensure claimants are using the correct schedule when filing their taxes. Typically, landowners who are eligible to claim under schedule FC-A will receive a greater per-acre rate than if they were to claim under schedule FC. As more landowners use the correct schedule, claims should slightly increase to reflect that change. The Department of Revenue continues to work with DATCP, county land conservation staff, and individual landowners to ensure that only eligible claimants are receiving the tax credit.

### Staff

Currently the program has 5.2 full time equivalent positions assigned to implementing the various pieces of the program. There is approximately $400,000 allocated to these positions annually and the money is drawn from segregated and federal funds as well as program revenues.

## Issues and Recommendations

Why does Wisconsin need farmland protections? Farmland preservation tools offer local governments options for stemming the conversion of agricultural land to nonagricultural use. As communities recognize the role that agriculture plays in their economy and way of life, local governments seek ways to protect farmland for the future. Indeed, there is continued interest across Wisconsin in the farmland preservation program. Over the past biennium, counties have updated their farmland preservation plans, local governments adopted farmland preservation zoning ordinances, groups of producers petitioned for AEA designation and individual landowners signed farmland preservation agreements. Counties continued to monitor landowner compliance with state soil and water conservation standards and landowners learned about and came into compliance with environmental requirements.

Despite these achievements interactions with various stakeholders, including county staff, landowner participants, and local government officials, have highlighted certain challenges to the overall success of the program. These challenges include the need to support local farmland preservation efforts and to encourage participation in the program by both current and new farm owners/operators.

The department can support local farmland preservation efforts financially, technically and administratively. By continuing to provide some financial assistance to counties for farmland preservation planning, the department can ensure that counties have the access to much-needed resources for facilitating local conversations about the value of farmland preservation. Continued financial support for county conservation department staff is also necessary to provide landowners with assistance in accomplishing vital conservation goals. Department staff will also continue to help with and find new ways to provide technical assistance. This includes training farmers and those who work with farmers on developing and implementing nutrient management plans, clarifying aspects of the farmland preservation program to tax preparers who work with farm landowners and highlighting new approaches to farmland preservation planning and zoning to local government officials. Administratively, the department can continue to find ways to develop efficiencies within the farmland preservation program. This includes improving communication with other agencies and, more specifically, assisting counties in their efforts to identify farmland preservation participants within each county.

During the last biennium, many communities demonstrated a tangible commitment to the local future of agriculture through the designation of an AEA. Despite continued interest in this element of the program, there are many landowners who could participate in the program or be eligible for a higher credit by signing a farmland preservation agreement. Currently only about 11% of land area covered by designated AEAs around the state is enrolled in farmland preservation agreements. Many stakeholders in the program, including landowners, tax preparers, and county land conservation staff have indicated that costs associated with developing a compliant nutrient management plan represents a significant barrier to further participation in the program. Counties recognize this barrier and work with landowners to highlight the financial and environmental benefits of implementing a

nutrient management plan. These efforts include hosting farmer education classes to assist farmers with writing their own plans and providing cost share dollars to help with the expense of plan development. The department continues to support these local efforts. Additional considerations to better understand the true cost of conservation compliance and evaluate opportunities to help facilitate and incentivize the development of nutrient management plans may also be warranted.

Program success ultimately relies on participation. While we must continue to reach out to local governments and landowners to emphasize the importance of protecting farmland for future generations, we must also consider the changing face of agriculture to ensure that the tools available are appropriate to those looking to use them. Specific consideration must be made for how to make farmland preservation relevant to an aging principal farmer, the operator who rents more land, and the beginning farmer. All three of these groups care about the future of farming. The Department should consider how the program currently supports these farmers, and consider what can be done differently to meet their needs. A key element is access to land. A recent survey of beginning farmers in Wisconsin noted that 44% of respondents identified access to land as a barrier to getting started. Without farmland preservation and without efforts to support beginning farmers, access may continue to be a barrier to those who want to farm. The Department should consider how to create opportunities to assist beginning farmers as they enter the industry. The percent of land rented to farmers has increased in the last several years since the last agricultural census. While more acres may be operated by renters, the farmland preservation program only directly benefits the landowners. As a result, the renter may not see the same incentive to participate in the program and achieve conservation goals. Providing benefits to renters as well as landowners would help foster continued participation in the program and lead to increased conservation compliance on more acres.

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The report is available on the following website:

http://datcp.wi.gov/Environment/Working_Lands_Initiative/

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