

Farmland Preservation Agreements in Designated Agricultural Enterprise Areas

Signed after July 1, 2009

-Frequently Asked Questions-

This factsheet provides information specific to agreements signed after July 1, 2011 that are located within an agricultural enterprise area (AEA) designated by the state.

What are the eligibility requirements for entering into a farmland preservation agreement?

Only the owners of the land are eligible to enter into a farmland preservation agreement. To enter into a farmland preservation agreement, the acres claimed must be located in a designated agricultural enterprise area (AEA) and included in a farmland preservation area in the certified county farmland preservation plan.

Although there is no minimum acreage requirement, claimants must have \$6,000 in gross farm revenue in the past year or \$18,000 in the past three years.¹ Eligible participants do not have to be the farm operator; landowners that rent out their land are eligible for the program. However, in order to be eligible for the tax credit, the land itself must produce \$6,000 in gross farm revenue in the past year or \$18,000 in the past three years, and rent cannot be included.

To claim the income tax credit on land covered by a farmland preservation agreement, the entire farm must be in compliance with the state's soil and water conservation standards.² A farm is all land under common ownership that is primarily devoted to agricultural use.

What are the benefits of having a farmland preservation agreement?

By entering into a farmland preservation agreement, you are indicating your commitment to continue farming the land that you own. In return for this commitment, you may claim the farmland preservation income tax credit. This credit is equal to \$5 per acre (\$10 per acre if you are also in a certified farmland preservation zoning district).³

A farmland preservation agreement does not protect land from annexation or from the exercise of eminent domain for public works projects. However, land in agricultural use and covered by a farmland preservation agreement is exempt from special assessments levied by a political subdivision, special purpose district or other local governmental

¹ Income from CRP contracts counts as gross farm revenue.

² The applicable soil and water conservation standards are those identified in ATCP 50 at the time of the application for an agreement.

³ Use Wisconsin Department of Revenue's Schedule FC-A.

entity for sanitary sewer or water. This protection is only available to a landowner within a designated AEA once they enter into a farmland preservation agreement with the state.

What are the land use restrictions under a farmland preservation agreement?

Farmland preservation agreements signed after July 1, 2009 are for 15 years and require that land use on the covered land remain in the following uses for the term of the agreement:

- agricultural use,
- accessory use,
- undeveloped natural resource and open space use, or
- minor pre-existing use which is compatible with agricultural use

Remember that other local ordinances (such as zoning and land division ordinances) continue to apply to your land, regardless of whether you sign an agreement. In many instances, these local ordinances establish limits on non-farm residential or commercial development of agricultural land.

Under an agreement, you must also comply with the state soil and water conservation standards (which includes a nutrient management plan) if you wish to claim the income tax credit on land covered by a farmland preservation agreement.⁴ Conservation compliance is required on the entire farm, regardless of whether all owned land is covered under an agreement. If you rent your land to an operator, the operator must follow soil and water conservation standards on rented acres.

Land covered by an agreement does not require you to allow public access.

What uses are allowed as accessory uses?

Uses that are considered “accessory” to the farming operation are allowed under an agreement. Some examples include:

- The farm residence
- A residence occupied by an individual earning more than 50% of his or her gross income from the farm (if owned by the farm owner/operator)
- A residence occupied by a parent or child of the farm owner/operator (if owned by the farm owner/operator)

⁴ The applicable soil and water conservation standards are those identified in ATCP 50 at the time of the application for an agreement.

Accessory uses may also include buildings or structures that are an integral part of, or incidental to an agricultural use. These buildings/structures may not take more than 50% of the area of the farm. In addition, some uses may not be allowed as an accessory use if a commercial operating license is required (with some exceptions including but not limited to a Grade A dairy license, a license for fish or deer farms, or for a nursery grower). Some examples of possible accessory uses that include buildings or structures include:

- Wind turbines used to generate energy for the farm where it is located
- A grain drying or storage bin
- A dairy or food processing facility
- Waste processing facility

Other businesses or activities that are carried out by the owner or operator of the farm may also be allowed as accessory uses. These uses must not require an additional building, must not limit the agricultural use of the farm, and may not employ more than four full-time employees annually. Some examples may include a day care, an accounting office, or a portrait studio run out of the farm residence.

Non-metallic mining operations are not acceptable accessory uses. The land under this use would need to be excluded from coverage under the farmland preservation agreement.

How do I show that I am in compliance with the soil and water conservation standards?

Landowners with a farmland preservation agreement who claim the farmland preservation tax credits must certify on their tax form that they comply with the state soil and water conservation standards that were in place at the time of the agreement application on all owned acres. This includes land that is owned but rented to another operator.

If you are a new claimant, you must submit a certification of compliance with soil and water conservation standards that has been issued by the county land conservation committee with your tax return. You have until the time you file your tax return for the year for which you are claiming to get a certificate of compliance.

If you are also covered by a certified farmland preservation zoning ordinance and have been claiming the credit continuously, you must be in compliance with soil and water conservation standards or you must have a performance schedule designed to meet state conservation standards by a specific deadline set by the county.

Can I sign a farmland preservation agreement for just a portion of my land?

When completing the agreement application, you may choose to exclude a portion of owned land, including a portion of a parcel, from coverage under the agreement. If you wish to exclude land from coverage, you must provide the department with a clear description of the land to be excluded from the agreement in writing and attach the description to the respective deed. The description should include the parcel number and the acreage of the excluded area and the excluded area should be shown on an aerial photo. You may develop the description, or get assistance to develop the description.

To claim the income tax credit, you must be in compliance with state soil and water conservation standards on all owned acres, regardless of whether they are all covered by the agreement. In addition, if you choose to exclude a portion of a parcel from coverage, be aware to claim the accurate credit for those acres. For example, if 35 acres of a 40 acre parcel is covered by an agreement, then only those 35 acres are eligible for the tax credit associated with the agreement (\$5/acre or \$10/acre if zoned). If the parcel is in a farmland preservation zoning district, the landowner may claim the \$10/acre credit on the 35 acres, but may only claim the \$7.50/acre credit on the remaining 5 acres that were excluded from coverage under the agreement.

The department may decide not to enter into an agreement with a landowner in a case where the pattern of excluded land may indicate future land use that is inconsistent with farmland preservation.

Can land be removed from under a farmland preservation agreement?

At the landowner's request, land can be removed from an agreement at any time prior to the expiration of the agreement.

Under a farmland preservation agreement signed after July 1, 2009, for each acre of covered land released, the landowner would be required to pay a conversion fee equal to three times the per acre value of the highest value category of tillable cropland in the town in which the land is located, as specified by the Department of Revenue in the most recent *"Use-Value Guidelines for Agricultural Assessment"* found at <http://www.revenue.wi.gov/report/a.html>.

The owner of the land at the time it is removed from the agreement is responsible for paying the conversion fee.

When do the agreements expire?

Farmland preservation agreements expire at the end of the contract. Agreements entered into after July 1, 2009 expire 15 years from the day the contract is signed by the state. These agreements are recorded at the county register of deeds, and therefore do not terminate upon death of the operator or sale of the land. Upon expiration of an agreement, the landowner may choose to enter into a new contract for another 15 year term.

How do we apply for a farmland preservation agreement?

In order to get a farmland preservation agreement on your land, you must submit a completed application form to the county clerk. The county must review and approve the application and forward the completed application to the Wisconsin Department of Agriculture, Trade and Consumer Protection. Once received, the department will review the application and enter into the agreement with the landowner, if the application is in order.

To prepare for completing the application and claiming the tax credit, you should take the following steps:

- Determine what land you want covered by the agreement
- Communicate your interest in entering into an agreement with other owners of the farm, those with a real estate interest in the farm, and any renters operating land to be covered
- Contact your county to verify eligibility. The county may be able to assist with:
 - Confirming the location of the parcels within a farmland preservation area and within a designated Agricultural Enterprise Area
 - Obtaining a legal description for the land to be covered
 - Identifying the tax identification number of any parcels to be covered, fully or partially
 - Obtaining an aerial map that shows the area to be covered
- Gather all required paperwork (deeds, property tax bills, map of the parcels)
- Work with the county land conservation department to determine compliance status and obtain a certification of compliance



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