

Wisconsin Farmland Preservation Program

2010-2011 Biennial Report





State of Wisconsin
Governor Scott Walker

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

December 2011

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

Dear ATCP Board Members,

Agriculture is a vital part of Wisconsin's economy and cultural identification. Despite this, Wisconsin has seen continued pressures which have been detrimental to its agricultural base, including an alarming rate of loss of Wisconsin's productive agricultural land. To address this problem and to promote development and investment in Wisconsin agriculture, the Working Lands Initiative (2009 Wis. Act 28) was approved by the legislature and signed into law on June 30th, 2009. This Act made significant revisions to the existing components of the Farmland Preservation Program, Ch. 91 Wisconsin Statutes, which had been the farmland preservation law since 1977 and also created the Agricultural Enterprise Area program.

Under Act 28, the Wisconsin Department of Agriculture, Trade and Consumer Protection (department), in cooperation with the Wisconsin Department of Revenue, must report to the Board of Agriculture, Trade and Consumer Protection and the Department of Administration on farmland preservation no later than December 31, 2011, and biennially thereafter.

This report is submitted by the department to satisfy the required reporting defined 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, Secretary
Wisconsin Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive
Madison, WI 53708

Agriculture generates \$59 billion for Wisconsin

2811 Agriculture Drive • PO Box 8911 • Madison, WI 53708-8911 • Wisconsin.gov

An equal opportunity employer

**Board of Agriculture, Trade
& Consumer Protection**

Andy Diercks—Chair
Richard Cates, Jr.
Mike Dummer
Enrique E. Figueroa, Ph. D.
Pamela Garvey
John Koepke
Margaret Krome
Miranda Leis
Mark Schleitwiler

Additional copies of this
report are available by
contacting:
DATCP—(608) 224-4622

The report is available on the
following website:

[http://datcp.wi.gov/
Environment/
Working_Lands_Initiative/
index.aspx](http://datcp.wi.gov/Environment/Working_Lands_Initiative/index.aspx)

Publication Number

ARM Pub. 217

Table of Contents

December 2011

FARMLAND TRENDS 4

PARTICIPATION & TAX CREDITS 5

 Participation 5

 Tax Credit Claims 6

FARMLAND PRESERVATION PLANS 8

 Number and Location 8

 Trends and Developments 9

FARMLAND PRESERVATION ZONING..... 11

 Number and Location 11

 Trends and Developments 13

 Rezoning 14

AGRICULTURAL ENTERPRISE AREAS 15

FARMLAND PRESERVATION AGREEMENTS 17

CONSERVATION COMPLIANCE 19

PROGRAM COSTS, ISSUES & RECOMMENDATIONS 21



FARMLAND TRENDS

Farmland availability, use and conversion trends in Wisconsin have seen some interesting developments over the past biennium. These can be seen in the agricultural land totals, conversion amounts, and land sales figures summarized below from the most current National Resource Inventory data and Census of Agriculture data.

Farmland Loss

The National Resources Inventory (NRI) performed every five years by the USDA Natural Resource Conservation Service, provides reliable statewide estimates of conversion of Wisconsin farmland to urban, built-up or rural transportation uses, land use categories generally considered “developed” land. While current data does not exist, the most recent data available, for years 1997, 2002 and 2007 shows a net decrease in Wisconsin farmland from 14,262,300 acres in 1997 to 13,698,200 acres in 2007, or about 564,100 acres. Of this acreage decrease about 226,600 acres, or 40.2%, consisted of conversion to developed uses. Over the 2002-



2007 period, however, about 51% of the net farmland loss was due to development, representing 112,500 acres. This represents an average loss of farmland to development of about 22,500 acres per year during this period.

Land Value

The Census of Agriculture, also conducted every five years, shows that about 67% of Wisconsin land in farms was being cropped (as defined by the Census of Agriculture) in 2007 and out of this cropped acreage about 12% was reported as idle. The WI Agricultural Land Sales report compiled in cooperation between the National Agricultural Statistics Service and the WI Dept. of Revenue indicates that of the Wisconsin agricultural land sold in 2010, about 4.5% of the acreage was sold for non-farm uses. Statewide, the average price per acre of farmland sold but continuing in agricultural use was \$3,861, compared to \$5,909 for farmland sold for non-farm uses. For comparison, in 2007, before the recession, diversion to non-farmland sales made up 12.8% of farmland acreage sold. Also, for 2007, the average price per acre of farmland sold continuing in agriculture use was \$3,518, while that for farmland diverted to non-farm use was \$10,125 (Figure 1).

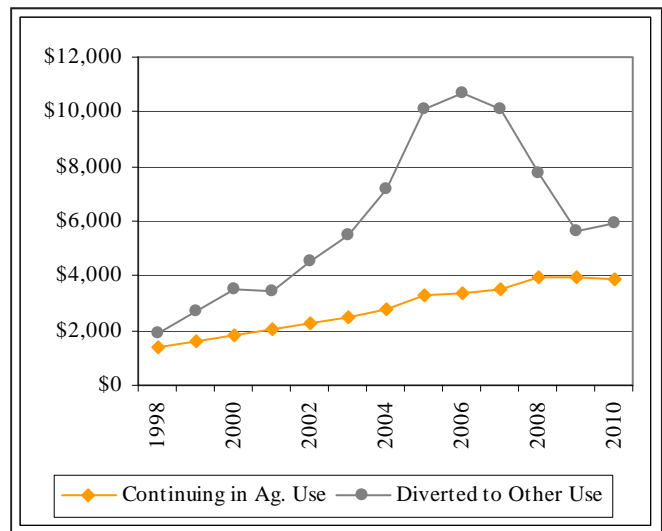


Figure 1: Farmland Sales Price



PARTICIPATION & TAX CREDITS

Participation

The Farmland Preservation Program provides landowners who qualify for the program an opportunity to claim farmland preservation tax credits on their state income tax filing. When the updates to the farmland preservation law went into effect in July, 2009, a qualifying landowner could claim farmland preservation tax credits by filing either the schedule FC or schedule FCA. Landowners who had land either within a certified farmland preservation zoning district or enrolled under a new or modified existing farmland preservation agreement file schedule FCA. Under this schedule landowners could claim \$5, \$7.50 or \$10 per acre based on whether their land was under a farmland preservation agreement, zoned for farmland preservation, or within both respectively. Landowners who had land that was under an agreement established prior to the change in the law are required to file a schedule FC. These landowners calculated their farmland preservation tax credit based on a formula considering their income and the amount of property taxes paid.

The following summary is based on data provided by the WI Department of Revenue (DOR) for the number of claims, amount of credits, and acreage for which the claims are based for tax year 2010 (filed in 2011). This was the first year that landowners were able to claim farmland preservation tax credits under the new law. As of the date of this report, the 2010 tax data is the only data available for the new tax credits.

In 2010, a total of 15,791 farmland preservation tax credit claims were reported.

This included about 7,100 claims using the schedule FC and 8,700 claims using the schedule FCA (Table 1). Farmland preservation claims were reported by landowners in about 1,200 towns, cities or villages located in 70 of the 72 counties. The greatest number of claims occurred in the southern portion of Wisconsin and claims were highest in jurisdictions with certified farmland preservation zoning districts. (Figure 2) Farmland preservation tax claims for 2010, however, were 850 fewer than for 2009. This continued the steady decreasing trend in the number of claims since 1989 when 25,542 claims were made under the farmland preservation program (Figure 3).

In 2010, the total acreage reported as the base for all claims was 2,905,577 acres with an average of about 187 acres per claim. The total acreage reported was split almost equally between the claims filed under schedules FC and FCA along with having average claims of about the same acreage. When compared to

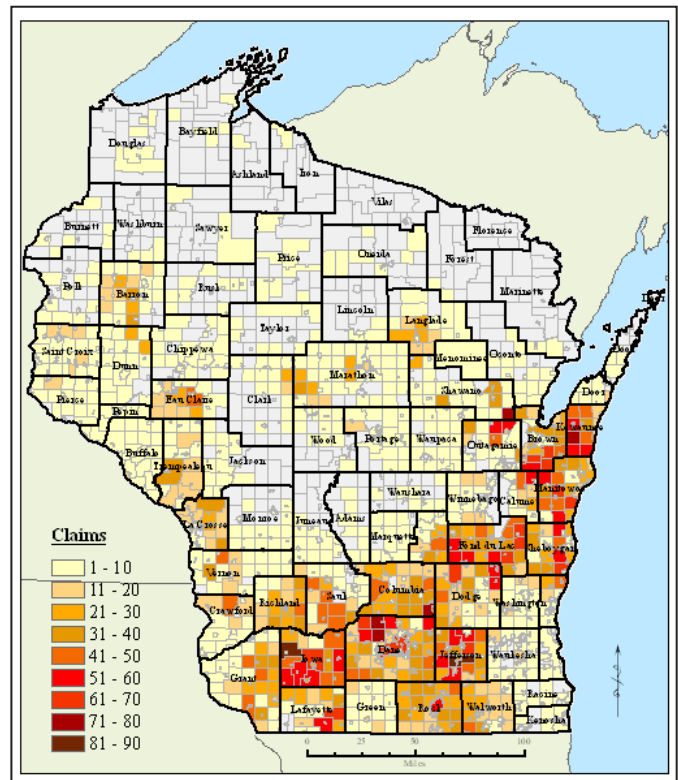


Figure 2: Farmland Preservation Tax Credit Claims

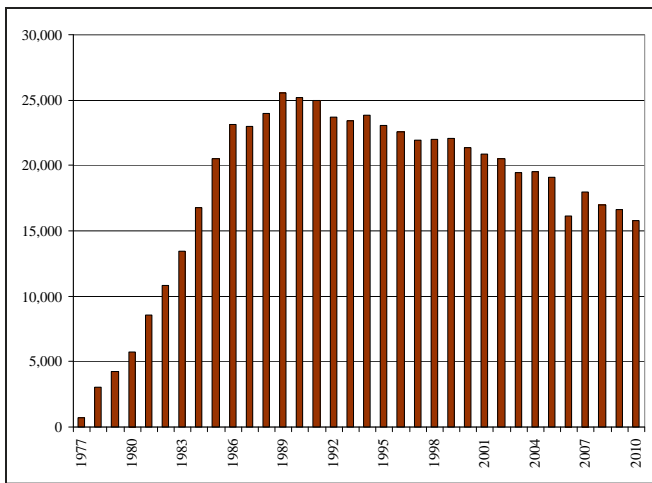


Figure 3: Farmland Preservation Tax Credit Claims

the estimated total acreage of agricultural land in Wisconsin of 13.7 million acres (NRI 2007), the acres reported as the basis for claiming farmland preservation tax credits are approximately 21.2 percent of land in agriculture.

Additionally, acreage data for farmland preservation program tax credit claims going back to 2006 were available. In that year, 3,631,656 total acres were reported under the program. This level of claimed acreage has consistently decreased each year since that time. The average acreage reported per claim over the same period, however, has remained relatively consistent hovering around 200 acres per claim.

Tax Credit Claims

Tax credit claims under the farmland preservation program totaled around \$18 million in 2010 with an average credit per claim of \$1,145. About 68% of the claims were made under new provisions the of

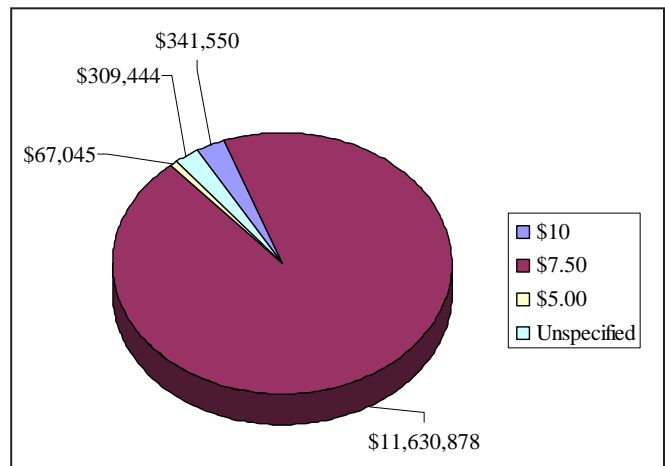


Figure 4: Schedule FCA Claims by Credit Rate

farmland preservation law using schedule FCA with credits totaling around \$12.3 million. Claims reported on schedule FCA, were primarily through the tax credit of \$7.50 per acre available when landowners have land within a certified farmland preservation zoning district. There were, however, a small percentage of claims on land under a farmland preservation agreement receiving \$5 per acre credit and on lands with both zoning and a farmland preservation agreement receiving \$10 per acre (Figure 4). The average credit claimed under the schedule FCA was \$1,417 with an average credit per acre of \$7.73 per acre (Table 1). Landowners with Farmland Preservation agreements that were enrolled prior to the law being revised in 2009 remained under the provisions of their existing agreement contracts, unless modified to meet the new law, and were required to use the schedule FC for claiming farmland preservation tax credits. About \$5.7 million in credits were distributed under schedule FC. The average credit per claim under the schedule FC was \$809 with an average per

Table 1: 2010 Farmland Preservation Tax Credits					
Schedule	Credits			Acres	
	Claims	Sum	Ave.	Sum	Ave.
FC	7,081	\$5,729,118	\$809	1,307,474	186
FCA	8,710	\$12,348,917	\$1,418	1,598,103	188
Totals:	15,791	\$18,078,035	\$1,145	2,905,577	187

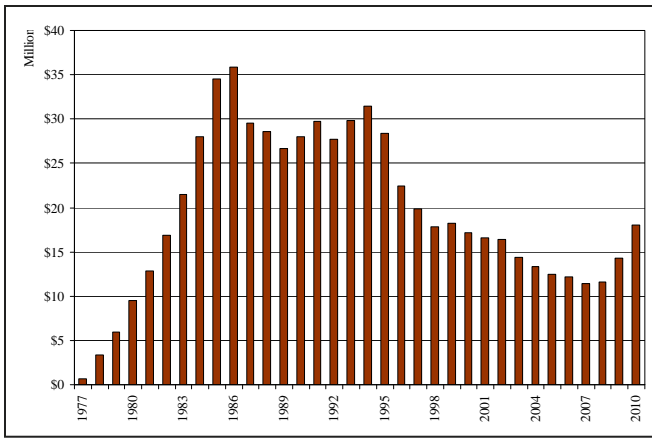


Figure 5: Farmland Preservation Tax Credit Annual Totals

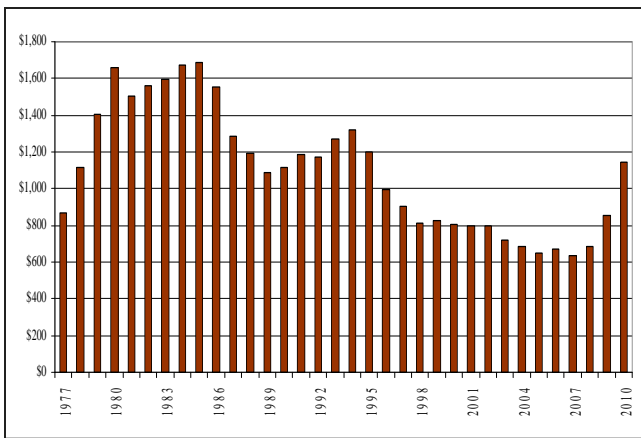


Figure 6: Farmland Preservation Average Tax Credit per Claim

acre credit of \$4.38, both of which are much lower than those reported under the schedule FCA (Table 1).

An increase in the total farmland preservation tax credits claimed, as well as the average credit per claim, was seen in 2010 from the previous year. This is the second year in which the credit total and average claim saw an increase from the previous year, which is a change from the decreasing trend that began in 1995. (Figure 5 and Figure 6). The 2010 farmland preservation credits, however, remain at about half their peak level amounts which were achieved in 1986.

The trend toward increasing amounts of credits claimed will likely continue over the next few

years as greater numbers of landowners switch to using the acreage based farmland preservation tax credit rates under the new schedule FCA. Reports from the DOR indicate that landowners and tax preparers experienced some confusion in determining which schedule to use when filing for the 2010 farmland preservation tax credits. According to the DOR figures about half of the claims filed under schedule FC should have been filed using schedule FCA. Since the credit provisions under the new law using the schedule FCA appear to provide greater credit per claimant than using the FC, those claims should be higher than what was claimed in 2010. Consequently as more landowners begin using the schedule FCA there should be an increase in the total credits claimed through the farmland preservation program.

Schedule	FC-A	Farmland Preservation Credit	2010
Wisconsin Department of Revenue		Enclose with Wisconsin Form 1, INPR, 2, 4, 4T, or 5	
Legal name(s) shown on Form 1, INPR, 2, 4, 4T, or 5		Social Security Number or FEIN	
<p>Caution: Schedule FC-A may only be filed if your farm is covered by a farmland preservation agreement or transition area agreement entered into on or after July 1, 2009, or located in a farmland preservation zoning district. See "Which Schedule to File" on page 1 of the instructions.</p>			
<p>Check here if this is an amended Schedule FC-A <input type="checkbox"/></p>			
<p>Questions Questions 1 through 6 must be answered (see instructions, page 3).</p>			
<p>1 a Individuals – Were you a legal resident of Wisconsin for all of 2010? (If "No," you do not qualify) ... 1a <input type="checkbox"/> Yes <input type="checkbox"/> No</p>			
<p>b Corporations – Were you organized under the laws of Wisconsin? (If "No," you do not qualify) ... 1b <input type="checkbox"/> Yes <input type="checkbox"/> No</p>			
<p>2 Enter the number of farms on which this claim is based 2 <input type="text"/></p>			
<p>3 Is each farm on which this claim is based in compliance with applicable soil and water conservation plans and standards? (If there was an outstanding notice at the end of 2010 of noncompliance issued against any farm, answer "No.") 3 <input type="checkbox"/> Yes <input type="checkbox"/> No</p>			
<p>4 Have you paid, or are you legally responsible for paying, the property taxes levied against the qualifying acres to which this claim relates? 4 <input type="checkbox"/> Yes <input type="checkbox"/> No</p>			
<p>5 Did each farm on which this claim is based produce gross farm revenues of at least \$6,000 during 2010 or a total of at least \$18,000 during 2008, 2009, and 2010 combined? 5 <input type="checkbox"/> Yes <input type="checkbox"/> No</p>			
<p>6 If any farm(s) on which this claim is based was used by someone else who met the requirement in question 5, what is the name and address of that person(s)?</p>			
<p>Credit Computation Complete the schedule on page 2. Fill in the amounts from the schedule on lines 7, 8, and 11, as applicable. Print numbers like this → 0 1 2 3 4 5 6 7 8 9 NO COMMAS; NO CENTS</p>			
<p>7 Qualifying acres located in a farmland preservation zoning district and subject to a farmland preservation agreement entered into after July 1, 2009 (from schedule, page 2) 7 _____ ACRES</p>			
<p>8 Multiply line 7 by \$10 8 _____ .00</p>			
<p>9 Qualifying acres located in a farmland preservation zoning district, but not subject to a farmland preservation agreement entered into after July 1, 2009 (from schedule, page 2) 9 _____ ACRES</p>			
<p>10 Multiply line 9 by \$7.50 (round result to the nearest dollar) 10 _____ .00</p>			
<p>11 Qualifying acres subject to a farmland preservation agreement entered into after July 1, 2009, but not located in a farmland preservation zoning district (from schedule, page 2) 11 _____ ACRES</p>			
<p>12 Multiply line 11 by \$5 12 _____ .00</p>			
<p>13 FARMLAND PRESERVATION CREDIT – Add lines 8, 10, and 12 13 _____ .00</p>			
<p>Fill in the credit from line 13 on line 46b of Form 1, line 71b of Form INPR, line 23b of Form 2, or (for corporations) line 47b of Schedule CR.</p>			
<p>Sign Here This farmland preservation credit claim and all enclosures are true, correct, and complete to the best of my knowledge.</p>			
Claimant's signature		Date	



Number and Location

Chapter 91, Wisconsin State Statutes established that all existing county farmland preservation plans are to expire by December 31, 2015. The expiration timeline is staggered, with the earliest counties being those experiencing the greatest increase in population between 2000 and 2007. The expiration schedule has approximately 14 different counties expiring annually (Figure 7).

Counties have been working with the department to update their plans according to the schedule listed in s. 91.14, Wis. Stats. All of the counties that have plans scheduled to expire at the end of 2011 have either initiated the certification process with the department or submitted a request for an extension. A total of eight new full countywide farmland preservation plan certifications are either in progress or completed. Under s. 91.14(4), Wis. Stats., the Secretary of agriculture, trade and consumer protection may delay the date for the expiration of a county's farmland preservation plan for up to two years beyond the statutory expiration date. Extensions have been granted to eight of the counties with five of those requesting only a one-year extension. Rock County has a previously certified farmland preservation plan with an expiration date of 2015, which per s. 91.14 (1), Wis. Stats., supersedes the 2011 expiration date.

Planning grant funding is available for counties to assist with the cost of updating and certifying a new farmland plan. All but three counties that are currently working on certifying a farmland preservation plan received planning grants this biennium. The counties that did not receive

planning grants this biennium were Calumet, Grant, and Waukesha counties.

There were also six amendments to existing farmland preservation plans, primarily map amendments, certified by the department this biennium. Several of these amendments were the result of a need to update outdated farmland preservation plan maps in order to meet the requirement of new programs initiated with the updates to the farmland preservation law. Such amendments include adjustment to the Bayfield and Calumet county farmland preservation plans to meet Agricultural Enterprise Area guidelines as well an amendment to the Wau-paca county farmland preservation plan to facilitate a PACE application (Table 2).

Many counties have requested preliminary reviews of their farmland preservation plans. The department has accommodated these requests and has provided feedback regarding the criteria used for establishing farmland preservation areas based on the provision in Chap. 91, Wis. Stats.

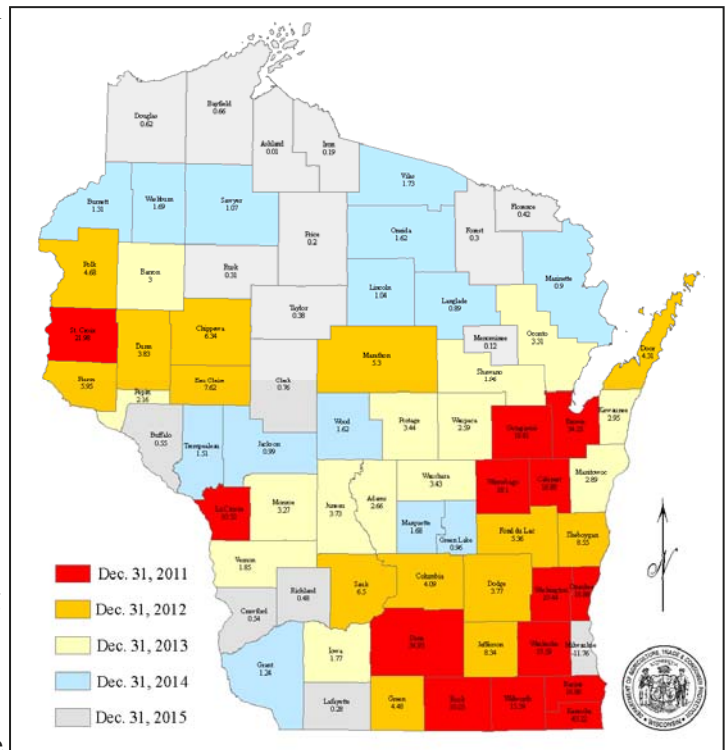


Figure 7: Farmland Preservation Plan Expiration Schedule

Table 2: Farmland Preservation Plan Certifications

County	Jurisdiction	Certification Type	Exp. 2011
Bayfield	County of Bayfield	Map amendment	No
Brown	County of Brown	Full text and map - Extension	Yes
Calumet	County of Calumet	Map amendment	No
Calumet	County of Calumet	Full text and map	Yes
Dane	City of Fitchburg	Text and map amendment	No
Dane	County of Dane	Full text and map - Extension	Yes
Dane	Town of Oregon	Map amendment	No
Dodge	County of Dodge	Full text and map	Yes
Door	Town of Clay Banks	Map amendment	No
Grant	County of Grant	Full text and map	No
Jefferson	County of Jefferson	Full text and map	Yes
Kenosha	County of Kenosha	Full text and map - Extension	Yes
La Crosse	County of LaCrosse	Full text and map—Extension	Yes
Outagamie	County of Outagamie	Full text and map	Yes
Ozaukee	County of Ozaukee	Full text and map - Extension	Yes
Racine	County of Racine	Full text and map - Extension	Yes
St. Croix	County of St. Croix	Full text and map - Extension	Yes
Walworth	County of Walworth	Full text and map - Extension	Yes
Washington	County of Washington	Full text and map	Yes
Waukesha	County of Waukesha	Full text and map	Yes
Waupaca	County of Waupaca	Map amendment	No
Winnebago	County of Winnebago	Full text and map	Yes

Trends and Developments

There are several developments and trends related to the certification of farmland preservation plans over the past biennium to note. These include the methods used to guide planning, a movement away from community based planning, and an overall reduction in the amount of land designated as farmland preservation on the plans.

Within the farmland preservation plans that the department has reviewed, either informally as part of a preliminary review or formally for certification purposes, quality of soils is often used

by the counties for mapping the farmland preservation area. Several counties have utilized the Land Evaluation and Site Assessment (LESA) system for helping to determine which lands to include. Some counties have also considered the current and future anticipated use of the land as part of the planning process. Often those lands that are currently in agricultural use and likely to remain that way over the next 15 years or more, are planned for farmland preservation.

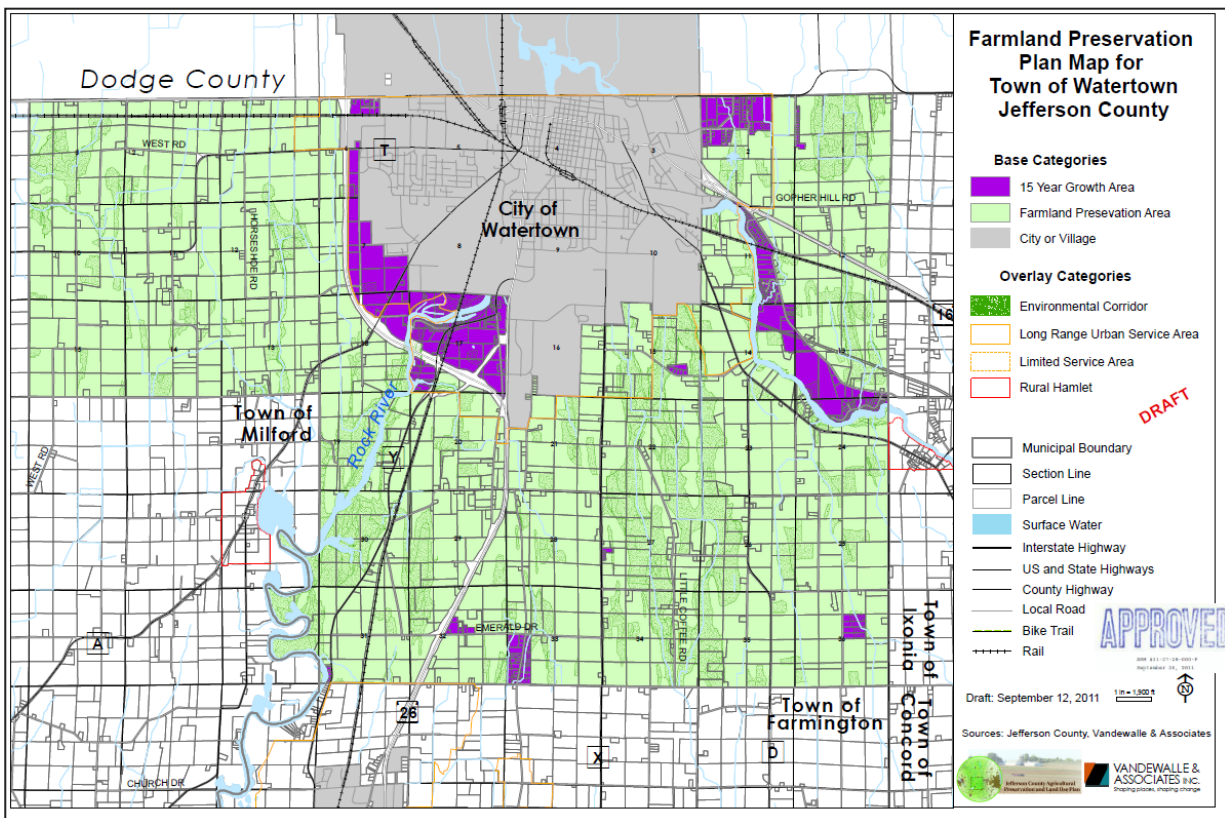
Department staff have encountered through the certification process a movement at the local level away from community based planning and more consideration of individual landowner

preferences related to farmland preservation. Under the law, farmland preservation plans must be based on requirements specified in ss. 91.10(1) and (2), Wis. Stats. Staff have had difficulty convincing counties to apply consistent methods in determining which lands to include in the farmland preservation area. Often planned areas are pock-marked with “holes” where parcels that are in agricultural use are excluded from farmland preservation. Other instances have occurred on the plan maps where, “islands” of farmland preservation areas exist in the middle of lands that are planned for other agricultural or open space use. It is unclear how these “holes” and “islands” meet the planning criteria listed by the counties in the corresponding farmland preservation plan text. This fashion of land use planning will likely have a detrimental effect on farmland preservation in the county in which it is employed.

Some counties have recognized the small size of their farmland preservation plan areas and acknowledged that landowners within the

county who are not planned for farmland preservation may in fact want to take advantage of farmland preservation programs such as Agricultural Enterprise Areas. As a result, these counties have mapped secondary areas that could be included as farmland preservation areas in the future if interested landowners come forward and request such changes.

On the whole, it appears less area is being planned for farmland preservation in the county plans that the department has reviewed. It is unclear whether this reflects an unwillingness to comply with program requirements or little interest in the benefits of the program. This may also be a result of a change to Chapter 91 that specifies what land can be designated as farmland preservation on a certified farmland preservation plan. Under s. 91.10(d), Stats., farmland preservation plans may not designate any area as farmland preservation that is planned for nonagricultural development within 15 years after the date on which the plan is adopted.





Number and Location

The farmland preservation law continues to allow local governments to adopt and have certified through the Department a farmland preservation zoning ordinance. Currently, there are over 400 local governments with either County or Town farmland preservation zoning ordinances (Figure 8). Landowners within jurisdictions with certified ordinances are eligible to claim farmland preservation tax credits. Under the new law, the certification of farmland pres-

ervation ordinances certified under prior law will expire resulting in the need for all previously certified jurisdictions to come under the provisions of the new law. Since 2009, the department has received about 30 requests for ordinance certification from jurisdictions that are either statutorily required or are requesting certification in advance of their set expiration date.

The department and staff have been continually working on ordinance certifications since 2009 and will have completed 27 separate farmland preservation zoning ordinance certifications under the new law. Certification can be completed as either full certifications or by amendment to existing certifications, that may be for either a text or map together or separately. A full certification occurs when a new jurisdiction enters into the program or when there is a com-

Table 3: Farmland Preservation Ordinance Certifications

County	Jurisdiction	Authority	Certification Type
Calumet	County of Calumet*	County	Full text and map
Calumet	Town of Chilton*	Town	Full text and map
Calumet	Town of Rantoul*	Town	Full text and map
Dane	Town of Oregon	County	Map amendment
Dodge	County of Dodge	County	Text amendment
Dodge	Town of Burnett	Town	Text and map amendment
Dodge	Town of Elba	Town	Text and map amendment
Dodge	Town of Herman	Town	Full Text and map
Dodge	Town of Portland*	Town	Full text and map
Door	County of Door	County	Text amendment
Door	Town of Clay Banks	County	Map amendment
Fond du Lac	Town of Auburn	Town	Text amendment
Fond du Lac	Town of Byron	Town	Text and map amendment
Fond du Lac	Town of Calumet	Town	Text and map amendment
Fond du Lac	Town of Eden	Town	Text amendment
Fond du Lac	Town of Lamartine	Town	Map amendment
Fond du Lac	Town of Lamartine	Town	Text amendment
Fond du Lac	Town of Marshfield	Town	Text and map amendment
Fond du Lac	Town of Oakfield	Town	Text and map amendment
Fond du Lac	Town of Osceola	Town	Text amendment
Grant	County of Grant	County	Full text and map
Jefferson	County of Jefferson*	County	Full text and map
Lafayette	County of Lafayette*	County	Text and map amendment
Manitowoc	Town of Franklin	Town	Text amendment
Richland	County of Richland	County	Text amendment
Sheboygan	Town of Holland	Town	Text and map amendment
Vernon	Town of Coon	Town	Text amendment

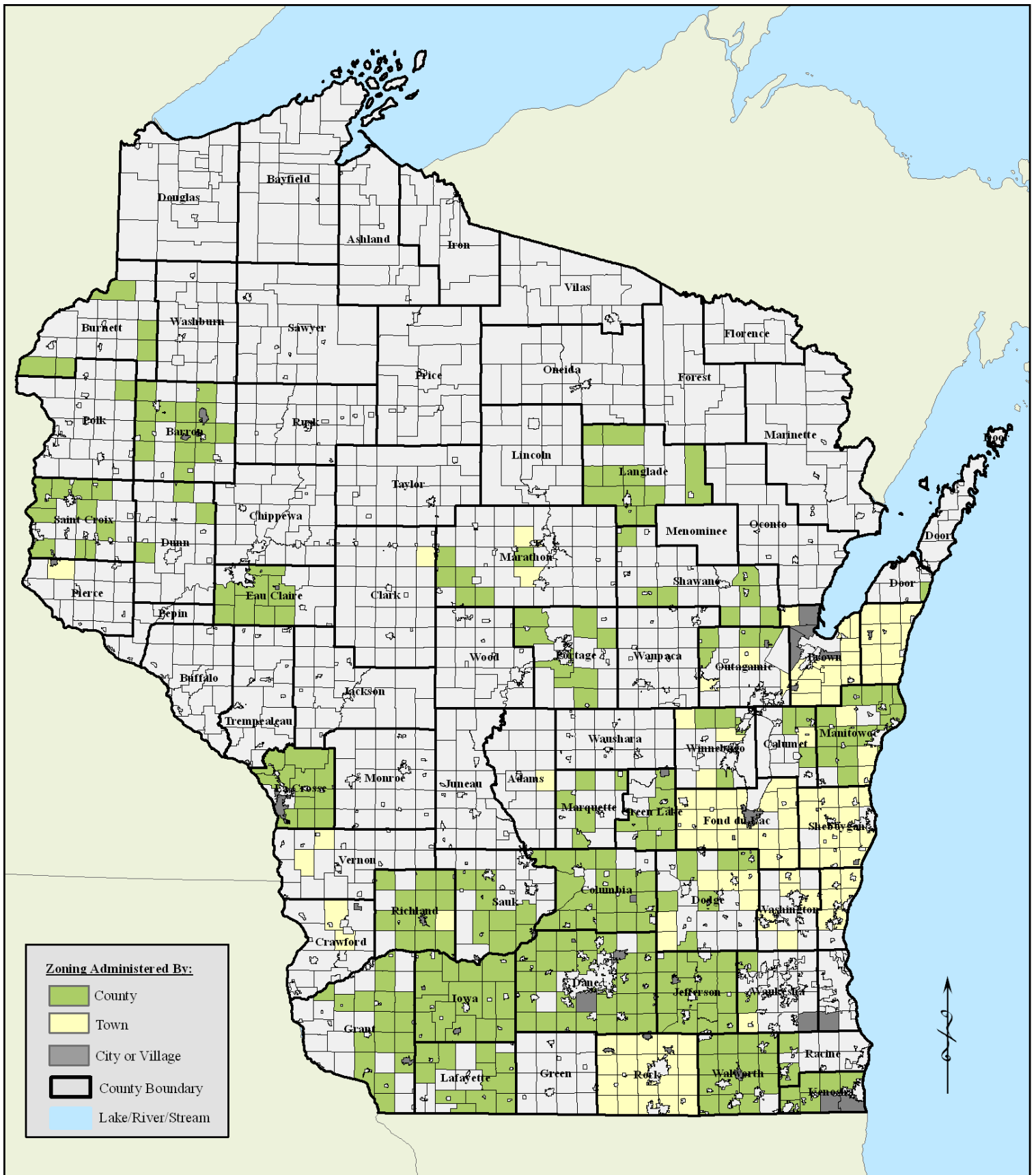


Figure 8: Jurisdictions with a Certified Farmland Preservation Zoning Ordinance

prehensive revision. Full certifications can be for up to 10 years. Certifications completed to date include nine text amendments, three map amendments, eight combined text and map amendments, and seven combined full text and map certifications (Table 3).

There has been movement in where certified farmland preservation ordinances occur in Wisconsin. The Town of Herman is a newly certified Town. Also, several jurisdictions have opted to have their certification lapse including all of Adams county but the Town of Lincoln, the Village of Germantown in Washington county, and the Town of Bloomfield in Walworth county.

Also, under s. 91.34(4), Wis. Stats., the new law, local governments have the option to request up to a two year extension to the expiration date of their existing certification. There were seven local units of government that were granted an extension.

Trends and Developments

There have been several interesting developments over the biennium related to the certification of farmland preservation zoning ordinances. Particularly in the type of certifications, the reasoning for amending, the methods of identifying farmland preservation areas, and who is preparing the certification documents.

Of the farmland preservation zoning ordinances that were certified in the biennium, only five were full text and map certifications following the update of the corresponding county farmland preservation plan. These are indicated with a “*” in Table 3. The majority have been amendments to the local government's currently certified farmland preservation zoning ordinance. These included amendments to solely the text while others also included adjustments to the zoning map.

Amendments were often initiated so that local governments could immediately take advantage of parts of the new law without having to perform a complete certification. Many of the amendments, whether text only or both text and map, have been to update the ordinance text in order to take advantage of the conditional use permit option for constructing nonfarm residences in the farmland preservation district allowed under the new law. In fact, nearly all of the farmland preservation ordinances that the department has certified, whether amendments or full updates, have taken advantage of the ability to build limited nonfarm residences in the farmland preservation district through the conditional use permit process. One possible explanation for this is that the conditional use permit process allows for control of nonfarm residential construction without removing land from the certified farmland preservation zoning district.

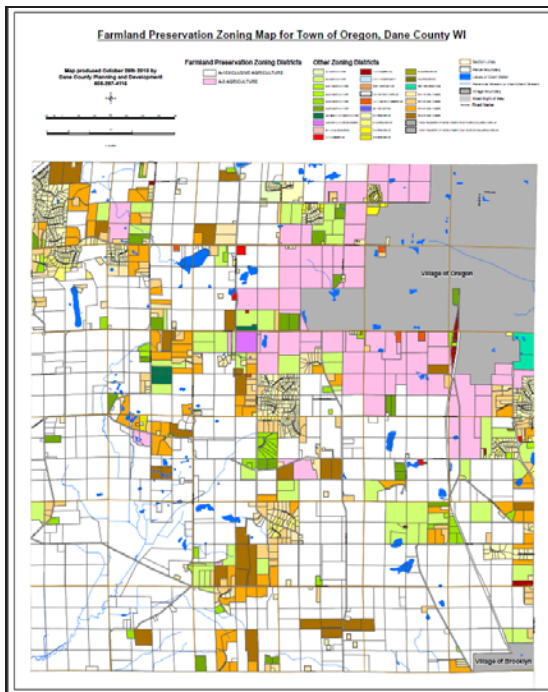


Consistency between the farmland preservation zoning ordinance districts and the farmland preservation plan areas has been very high, particularly for the farmland preservation zoning ordinances that the department has certified following the certification of the corresponding county farmland preservation plan. Additionally, although it is an option for farmland preservation ordinances to certify multiple farmland preservation districts, as they may have under

the old law with both a farmland preservation district and a transition district, local governments are typically requesting certification of a single farmland preservation district.

The amount of land being designated for farmland preservation appears to overall be in a downward trend. Unfortunately, there is an inclination, in some cases, to base farmland preservation zoning on individual landowner inputs which would create spot type zoning instead of community based zoning approaches. Department staff work with the local governments to avoid this type of zoning prior to final certification of the zoning ordinance map.

The department is seeing a trend for towns and counties to use consultants for drafting of the ordinance text and maps more than what was experienced previously. Since the law went into effect thirteen have been drafted through consulting firms, thirteen were prepared using existing county or town staff, and one was accomplished using the regional planning commission staff. Also, often county staff have been acting in both technical and advisory roles for towns who are attempting to certify their own farmland preservation ordinances.



Rezoning

Beginning in 2010, per s. 91.48, Wis. Stats., local governments were required to report to the department the number of rezones, the number of acres rezoned out of farmland preservation, and collect a conversion fee when land was rezoned out of farmland preservation zoning districts. This part of the statutes was changed in June, 2011 as a result of the 2011 WI Act 32 biennial budget bill, which eliminated the provision requiring the rezoning conversion fee. Local governments, however, must continue to follow the other provisions of s. 91.48, Stats. These include making specific findings, after a public hearing, as to the reasons for rezoning land out of farmland preservation. Plus, per s. 91.48(2), Stats., local governments are still required to report to the department by March 2 on the previous year's rezoning.



The department began accepting and tracking rezone reports beginning in early 2010. There are about 180 local governments that were required to submit a rezoning report, of which the department received 122 reports. Within those reporting jurisdictions 73 reported to have no acres rezoned in 2010. There was, however, a combined total of 778 acres across Wisconsin reported rezoned out of farmland preservation that year. Prior to the law change, \$590,495 was collected as conversion fees for rezoning.



The Agricultural Enterprise Area (AEA) program came into effect in 2009 with the passage of the updated Farmland Preservation law. Under the program, local communities, with participation from agricultural landowners, may voluntarily petition for state designation as an AEA. Through the designation, a local community identifies an area of land important for continued agricultural production that also supports agricultural service and processing sectors, all of which are necessary to ensure a future for agriculture. This designation can help to maintain agricultural land use and encourage investment in the agricultural economy.

Once designated, agricultural land owners within the AEAs may enter into new farmland

preservation agreements with the department that allow the landowner to collect farmland preservation tax credits.

Chapter 91, Stats., gives the department authority to designate AEAs with a combined area of not more than 1 million acres. Since 2009, the department will have designated 17 AEA areas, totaling approximately 340,000 acres. In 2010, the first year of the program, the AEA call for petitions resulted in the submittal of 12 petitions covering a total area of just under 200,000 acres. On January 1, 2011 the designation of these 12 AEAs went into effect by administrative rule. The department received seven petitions in the 2011 call for petitions. The department will designate five of these petitions, covering about 140,000 acres, by rule effective January 1, 2012 (Figure 9).

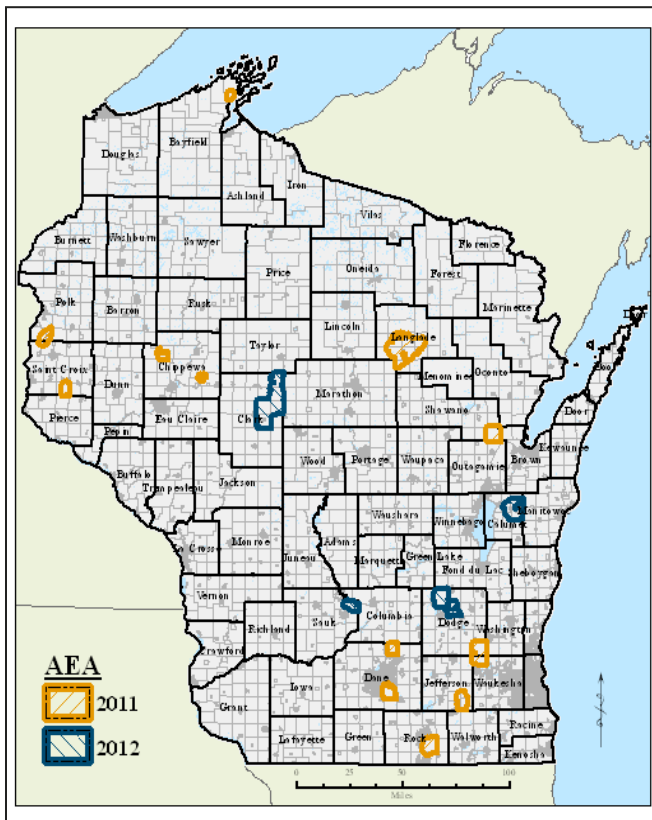


Figure 9: AEA Locations by Established Year



Location

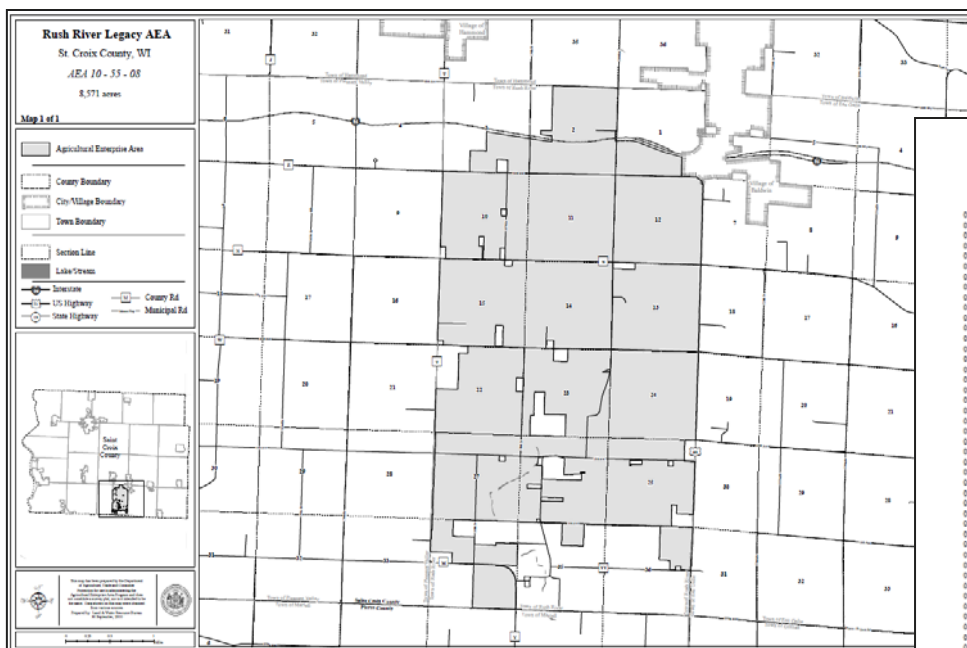
The designated AEAs are located throughout Wisconsin. They are located in parts of 14 counties and 39 towns and frequently span political jurisdictions. Per statutory guidelines, AEAs are located entirely within areas designated for agricultural preservation on certified county Farmland Preservation Plan maps and 11 of the designated AEAs are also at least partially within a certified Farmland Preservation Zoning Districts (Figure 9).

Nature

The nature of the designated AEAs is diverse due to differences in landowner and community participation, type of agricultural land use, and natural variation of the landscape across Wisconsin. AEAs range in size from 1,600 acres to 62,000 acres with boundaries that follow both natural, political, and ownership boundaries. As shown in Table 4, petitions requesting designation often included many more than the five land owner petitioners required by the statute. Petition preparation assistance was provided by staff from county conservation departments, towns, land trusts, and University of Wisconsin Extension. The agricultural makeup of the AEAs is composed of producers dedicated to traditional agriculture in Wisconsin as well as in some case non-traditional specialty agriculture. Correspondingly, a strong component of all AEAs is a connection to existing agricultural infrastructure.

Table 4: AEA's

AEA name	Acres	Petitioners
Antigo Flats AEA	62,278	16
Ashippun/Oconomowoc AEA	30,159	25
Bayfield AEA	2,986	5
Bloomer Area AEA	4,380	14
Cadott Area AEA	1,640	9
La Prairie AEA	21,093	33
Maple Grove AEA	21,867	8
Rush River Legacy AEA	8,604	7
Scuppernong AEA	14,015	6
Squaw Lake AEA	9,718	15
Town of Dunn AEA	10,339	6
Windsor AEA	11,167	15
Burnett AEA	14,833	45
Fairfield AEA	9,509	7
Heart of Amer. Dairyland AEA	61,410	157
Hilbert Ag Land on Track AEA	28,477	17
Trenton AEA	26,745	35
Total:	339,220	420



Wisconsin Department of Agriculture, Trade and Consumer Protection

**Rush River Legacy AEA
Associated Tax Parcel List¹
(AEA 10-55-08)**

02B-1003-20-000	02B-1010-10-000	02B-1016-20-010
02B-1003-50-000	02B-1010-40-000	02B-1016-50-000
02B-1003-60-000	02B-1010-70-000	02B-1016-80-000
02B-1003-45-000	02B-1010-80-000	02B-1016-90-000
02B-1003-70-000	02B-1010-90-000	02B-1016-40-000
02B-1003-20-000	02B-1010-95-000	02B-1016-70-000
02B-1003-30-000	02B-1011-10-000	02B-1016-90-000
02B-1003-15-000	02B-1011-10-100	02B-1016-60-000
02B-1003-20-000	02B-1011-20-000	02B-1016-99-000
02B-1003-35-050	02B-1011-30-000	02B-1017-10-100
02B-1003-30-100	02B-1011-40-000	02B-1017-10-100
02B-1004-60-000	02B-1011-60-000	02B-1017-10-100
02B-1004-50-000	02B-1011-80-000	02B-1017-20-000
02B-1004-90-000	02B-1011-95-000	02B-1017-30-000
02B-1005-10-000	02B-1011-95-000	02B-1017-40-000
02B-1005-20-000	02B-1012-20-000	02B-1017-50-000
02B-1005-20-050	02B-1012-10-000	02B-1017-60-000
02B-1005-50-000	02B-1012-20-100	02B-1017-70-000
02B-1005-80-000	02B-1012-30-200	02B-1017-80-000
02B-1005-80-000	02B-1012-30-000	02B-1017-85-000
02B-1005-60-000	02B-1012-50-000	02B-1017-87-000
02B-1005-45-000	02B-1013-40-100	02B-1017-90-000
02B-1005-10-000	02B-1013-60-200	02B-1017-95-000
02B-1005-30-000	02B-1013-70-000	02B-1017-95-100
02B-1006-30-000	02B-1013-80-000	02B-1018-10-000
02B-1006-50-000	02B-1013-90-000	02B-1018-20-000
02B-1006-50-000	02B-1014-00-100	02B-1018-30-100
02B-1006-60-000	02B-1014-05-000	02B-1018-30-200
02B-1006-70-000	02B-1014-05-100	02B-1018-40-000
02B-1006-85-000	02B-1014-05-200	02B-1018-40-000
02B-1006-80-000	02B-1014-10-000	02B-1018-50-000
02B-1006-95-000	02B-1014-20-000	02B-1018-50-000
02B-1008-10-000	02B-1014-30-070	02B-1018-90-000
02B-1008-70-000	02B-1014-40-100	02B-1019-00-000
02B-1008-20-000	02B-1014-40-000	02B-1019-10-110
02B-1008-95-000	02B-1014-50-000	02B-1019-10-200
02B-1009-20-100	02B-1014-60-000	02B-1019-20-000
02B-1008-20-200	02B-1014-80-000	02B-1019-30-000
02B-1008-20-300	02B-1014-80-100	02B-1019-40-100
02B-1008-20-100	02B-1014-90-100	02B-1019-50-010
02B-1008-35-400	02B-1014-95-110	02B-1019-50-010
02B-1010-10-000	02B-1014-95-200	02B-1019-50-100
02B-1010-20-000	02B-1015-10-000	02B-1019-60-000
02B-1010-30-000	02B-1015-10-100	02B-1019-60-100
02B-1010-40-100	02B-1016-10-100	02B-1019-65-000
		02B-1019-65-100

¹This document lists the tax parcel numbers of property within the Rush River Legacy AEA that may be eligible for a farmland preservation agreement. The tax parcel numbers listed here were generated on July 1, 2011.

1



Farmland preservation agreements continue as part of the Farmland Preservation Law. Under Chap. 91, Stats., there are three variations of farmland preservation agreements that the department administers. New 15-year farmland preservation agreements can be entered into voluntarily by landowners who have land located in a designated AEA. Landowners with a farmland preservation agreement signed prior to July, 2009, may either modify the existing agreement to become eligible for the per acre farmland preservation tax credit available under the new program or landowners can choose to continue under the provisions of their existing agreement until it expires.

There are a total of 3,774 active farmland preservation agreements enrolled to date with the department. This includes existing, modified and new farmland preservation agreements that cover 526,463 acres under contract. The location of these agreements is shown on the map in Figure 10. Of these, 3,663 are farmland preservation agreements that were entered into prior to July, 2009 and cover 499,356 acres. However, many existing farmland preservation agreements have expired or will be expiring in the coming years. From calendar years 2009 to

Table 5: Farmland Preservation Agreement Expiration

Cal. Year	Agreement Expirations		Agreement Buyouts	
	Number	Acres	Number	Acres
2009	1,207	128,117	17	263
2010	916	95,366	9	226
2011	810	101,274	3	429
2012	605	72,705		
2013	365	50,184		

2011, approximately 2,900 agreements have expired covering 325,000 acres. Further, 970 agreements covering 123,000 acres are scheduled to expire in 2012 and 2013. Each year there are some landowners who opt to terminate their farmland preservation agreement through the buyout process. From 2009 to 2011 the department processed 29 farmland preservation agreement buyouts covering 918 acres. Also, 47 landowners chose the options of modifying their existing agreement to come under the provisions of the new law (Table 5).

Table 6: New Farmland Preservation Agreements

AEA name	Agreement		
	Number	Acres	% of AEA
Antigo Flats AEA	68	21,243	34%
Ashippun/Oconomowoc AEA	4	342	1%
Bayfield AEA	0	0	0%
Bloomer Area AEA	4	528	12%
Cadott Area AEA	6	1,062	65%
La Prairie AEA	6	1,133	5%
Maple Grove AEA	14	2,443	11%
Rush River Legacy AEA	0	0	0%
Scuppernong AEA	1	60	0.4%
Squaw Lake AEA	1	240	2%
Town of Dunn AEA	0	0	0%
Windsor AEA	9	942	8%

The department has been receiving and processing applications for new farmland preservation agreements since the first Agricultural Enterprise Areas (AEA) were designated on January 1, 2010. To date 114 farmland preservation agreement applications in nine AEA's have been received. These agreements cover about 28,000 acres or 14% of the 200,000 acres within the AEA's.

The number and acreage of new agreements within each AEA can be seen in Table 6.

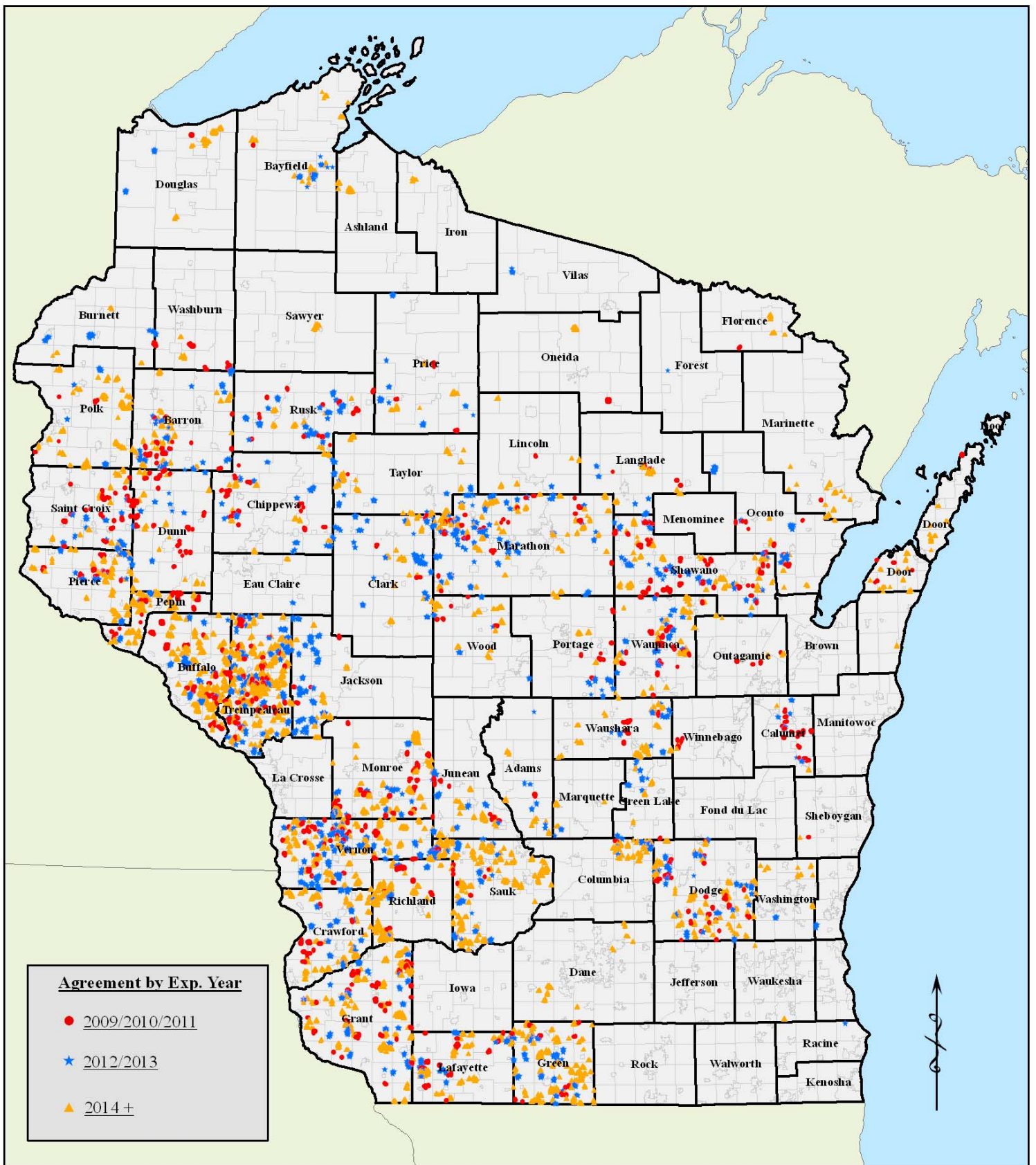


Figure 10: Farmland Preservation Agreement Locations by Expiration Year



CONSERVATION COMPLIANCE

The Farmland Preservation Program (FPP) provides tax credits to participating farmers (claimants) but requires claimants to protect waters from soil, fertilizer, and manure pollution through implementation of the state water quality performance standards. Each farm is inspected for compliance by the county conservation department every four years. In addition, each county may require claimants to annually certify their compliance with these standards. These water quality performance standards consist of:

- Developing and implementing a nutrient management (NM) plan according to NRCS 590 standard and cropping fields to meet tolerable soil loss ("T");
- Ensuring manure storage facilities constructed or substantially altered after 2002 meet the NRCS 313 standard; have no visible signs of leakage or failure; are maintained to prevent overflow;
- Ensuring each storage facility that has not had manure added or removed within 24 months, is closed according to standards or continued use has been approved;
- Ensuring runoff is diverted away from all feedlots, manure storage areas, and barnyards by roof runoff controls (e.g. gutters, tiled infiltration trenches) or overland flow diversions to prevent the flow of clean water within water quality management areas (WQMA);

- Ensuring no unconfined manure piles in the WQMA;
- Ensuring no channels or other visible signs of significant discharge from a feedlot or stored manure into waters of the state; and
- Maintaining self-sustaining sod or vegetative cover adequate to preserve streambank or lakeshore integrity in areas where livestock have access.

Counties responded to noncompliance with the performance standards by issuing: 73 Notices of Noncompliance (NNC) and 16 cancellations of the NNC in 2009; 171 NNC and 51 cancelled in 2010; and, 126 NNC and 17 cancelled in 2011.

To claim tax credits in 2010 and beyond, FPP claimants must only certify that they are in compliance on their tax return if the farm either: (1) Complies with the Ch. NR 151, Wis. Admin. Code, agricultural performance standards and prohibitions incorporated into Ch. ATCP 50 Wis. Admin. Code; or (2) Is or will be covered by a schedule of compliance that enables 2009 claimants to comply with standards by a specific deadline set by the county (which cannot extend beyond December 31, 2015). Those with FPP agreements prior to 2004 must follow the conservation requirements provided in those agreements.



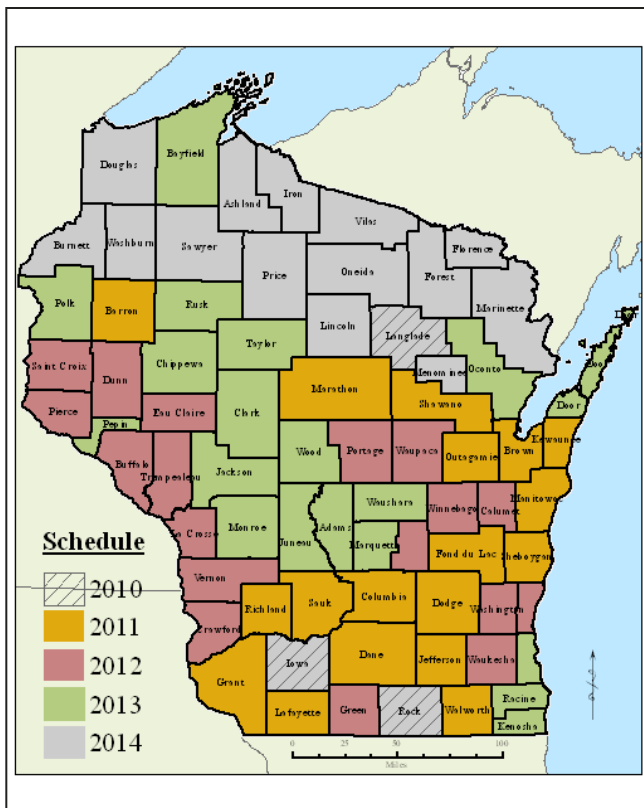


Figure 11: County Compliance Activity Review Schedule

- Nineteen counties say they have insufficient staff resources to conduct compliance reviews with most needing another FTE of dedicated compliance staff;
- Sixteen counties respond to non-compliance by working to keep the farmers compliant before issuing Notices of Non Compliance;
- Cost-share funds are directed to violations of performance standards utilizing the following strategies: eight counties target specific geographic areas; seven counties fund farmers on a 1st come, 1st served basis; five counties target FPP claimants; two counties target cost share funds based on complaints.

In 2010 and 2011, DATCP staff reviewed 21 of 72 county land conservation departments' conservation compliance activities under the new law ss. 91.80 and 91.82, Wis. Stats., (Figure 11). These 21 counties cover 7,713 FPP claimants (approximately 16,000 claimants statewide). Of these 7,713 FPP claimants, 216 were issued Certificates of Compliance, and 2,588 were given schedules to comply before 2015. The remaining 4,909 FPP claimants have yet to be contacted by county staff to determine their compliance status. Other results from our reviews were:

- Twenty one counties have compiled and maintain an active FPP participant list, and send participants self-certifications forms;





PROGRAM COSTS, ISSUES & RECOMMENDATIONS

Costs

Through 2015, the department offers grants for farmland preservation planning to reimburse counties for up to 50% of the costs of preparing a farmland preservation plan, with a maximum grant of up to \$30,000. All counties are eligible to receive grant funds and the year a county receives the funds is based on the statutory expiration dates of their certified plans. The following counties were awarded planning grants in the first round: Brown, Dane, Dodge, Jefferson, Kenosha, La Crosse, Outagamie, Ozaukee, Racine, Rock, St. Croix, Walworth, Washington, and Winnebago. All but one of the counties was awarded the maximum. Calumet and Waukesha counties were also eligible but did not apply for a grant. The second round of grants will have its payments delayed until after July 1, 2012. The counties receiving grants in the second round are Chippewa, Columbia, Door, Dunn, Eau Claire, Fond du Lac, Green, Marathon, Pierce, Polk, Sauk, Sheboygan. Again, all but one county is scheduled to receive the maximum grant amount.

The total amount of farmland preservation tax credits claimed increased in 2010 from the previous year as well as the average credit claim. This is the second year the credit total and average claim saw an increase. This is a change from the decreasing trend that began in 1995. This increasing trend will likely continue over the next few years as greater numbers of landowners switch to using the acreage based farmland preservation tax credit rates under schedule FCA.

There are eight staff at the department that are either partly or wholly assigned to Farmland Preservation programs. Several of these staff are also charged with carrying out other programs at the department. Together these staff resources total 5.2 FTE positions and approximately \$392,000 is allocated to fund these positions. These staff are supported by one of the following funding sources: segregated funds, program revenues, and federal funds.

The new farmland preservation law under ss. 91.14(1) and 91.34(1), Stats., has accelerated the rate which farmland preservation plans and ordinance expire. Thus, the annual requests for certification through the department have increased and are expected to continue to increase. To accommodate the increased workloads the department projects a need to reassign staff resources in the next biennium.

Issues

The primary challenges for the department in the farmland preservation program include correct tax credit collection by participants, program acceptance, and reduction of staff resources at the county level to assist with implementation of the program.

Wisconsin Department of Revenue (DOR) reports indicate that there was confusion in determining which schedule, FC or FCA, was to be used when filing for the 2010 farmland preservation tax credits. Figures indicate that about half of the claims filed under schedule FC possibly should have been filed using schedule FCA. The department has begun working with the DOR to resolve this issue. The department has already begun taking steps to identify methods of reaching tax preparers and participants prior to the 2011 tax season.

Although the components of the farmland preservation program are administered at the State level, there is no question that they are implemented at the local level. This is true for Agreements, Agricultural Enterprise Areas, Plans, and Ordinances. Consequently, the department relies on having staff with the needed technical expertise and experience at the county and local level to make the programs successful. The global recession has eased non-agricultural development pressure on farmland and made it a particularly good time to thoughtfully plan for and enact agricultural preservation tools essential for the health of Wisconsin's agricultural future. However, this same downturn in the economy has also led to reduction in funding available for county staff, which has limited or removed local technical expertise the department depends on to implement and maintain the farmland preservation program across Wisconsin. The cutbacks are attributed to funding reductions to both local and state sources.

The department provided extensive outreach and public input opportunity for the updated farmland preservation law. Since it became law, the department has remained diligent on addressing concerns, as they are received, through verbal and written communications. Still, there are some that remain critical of the program.

Recommendations

Based on the experiences over the past biennium implementing the revised farmland preservation law the department has the following recommendations for enhancing the program. The first recommendation would be continued outreach efforts for the farmland preservation program by the department. This should include holding workshops, publishing newsletters, finding new opportunities for outreach, and continuing existing and developing new relationships with partners. The more knowledge is disseminated about the program, the more likely the programs will continue to be successful. The department also recommends an increase in the acreage allotment for Agricultural Enterprise Areas. The current maximum acreage allowed for designation under s. 91.84(1), Wis. Stats. is one million acres. However, within the first two years of the program 340,000 acres have already been designated as AEAs. Without this change in the total available AEA acreage, the number of farmers with access to participation in the Farmland Preservation Program by means of a farmland preservation agreement will be restricted along with the number of farms that follow the soil and water conservation standards that are required as part of a farmland preservation agreement. Conversely, increasing the total allowable AEA acres could increase the amount of possible farmland preservation tax credits available to individual farmers up to the point the total farmland preservation tax credits exceed the \$27 million ceiling.

