



Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Agricultural Resource Management
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Farmland Preservation Program (ch. 91, Wis. Stats.)

Farmland Preservation Agreements INSTRUCTIONS

WHAT IS A FARMLAND PRESERVATION AGREEMENT?

A farmland preservation agreement is a voluntary agreement between the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) and the landowner:

- The landowner agrees to preserve land for agricultural use and comply with state soil and water conservation standards.
- In return, the landowner may claim state farmland preservation tax credits on the covered land. The covered land is also exempt from special assessments for sanitary sewers and water.
- A farmland preservation agreement runs with the land and is binding on subsequent owners of the covered land for the term of the agreement.

Applicable Law

Owners of eligible farmland may choose to enter into a farmland preservation agreement under s. 91.60 (1), Wis. Stats.

- Farmland preservation agreements may only be created in agricultural enterprise areas. DATCP designates these areas in response to local petitions.
- Landowners in agricultural enterprise areas may enter into new 15-year agreements, and may claim the farmland preservation tax credit. (Only Wisconsin residents may claim tax credits.)
- Tax credits are paid as a flat amount per acre of covered land (\$5 per acre, or \$10 per acre if the land is also covered by farmland preservation zoning).
- An agreement may cover all or part of a farm. However, the entire farm must comply with state soil and water conservation standards in order for the landowner to claim tax credits on that portion of the farm that is covered by the agreement. Please contact your local land conservation department with questions related to conservation compliance.
- Land covered by an agreement is restricted to the following uses:
 - *Agricultural uses.*
 - *Accessory uses* such as farmhouses, farm structures, and farm activities that are incidental to an agricultural use.
 - *Undeveloped natural resource and open space uses.*
 - *Minor pre-existing uses*, such as local telephone lines, which are compatible with agricultural use.

A farmland preservation agreement, and the rights and responsibilities of the parties under the agreement, is interpreted in light of the farmland preservation law as it existed on the effective date of the agreement. The agreement takes effect when it is signed by all landowners and the department. A farmland preservation agreement does not exempt a landowner from compliance with zoning ordinances or other applicable law.

HOW CAN I APPLY FOR A FARMLAND PRESERVATION AGREEMENT?

A landowner applying for a farmland preservation agreement must complete the "Farmland Preservation Agreement Application Form" (ARM-LWR-471) and submit it to the County Clerk of the county in which the land is located. All required documentation must be attached to the application. A county may charge a reasonable processing fee for processing the application.

The "Farmland Preservation Agreement Application Form" consists of four parts:

- Part 1: Applicant (Landowner) Information
- Part 2: Information about Land to be Covered by the Agreement ("Covered Land")
- Part 3: Parcel Information for Covered Land
- Part 4: Other Required Signatures

Part 1: Applicant (Landowner) Information

In this section, the applicant is asked to provide basic information such as address, telephone and e-mail address. The applicant or authorized representative (and spouse, if applicable), must sign the application before an agreement contract can be developed. Please note the agreement contract will be made with the current landowner(s). The holder of a life estate must sign both the application and the farmland preservation agreement.

Part 2: Information about Land to be Covered by the Agreement ("Covered Land")

The applicant is asked to provide information about the land to be covered by the agreement, including the location and total acreage. The applicant must provide information about current land use, land eligibility, and compliance with soil and water conservation standards.

Location, Acreage, and Current Land Use: The applicant must describe the use of the covered land and provide information on any existing structures located on the covered land. If the current land use or the existing structures conflict with the terms of the agreement, DATCP may exclude the land from coverage under the agreement.

It is acceptable for the applicant to exclude some land from coverage under the agreement contract. Please note that if the excluded land is withheld for purposes that conflict with the goals of the agricultural enterprise area program or for purposes that will likely impair or limit agricultural use on other lands in the agricultural enterprise area or lands proposed for inclusion under a farmland preservation agreement the department may decline to enter into an agreement on any land owned by the landowner. If the applicant chooses to exclude a portion of their land from the agreement contract, a legal description of the land to be excluded must be provided with the application.

Eligible Land: Under the law, land is eligible for a farmland preservation agreement if ***all*** of the following apply:

- The land is located in a farmland preservation area designated in a certified county farmland preservation plan.
- The land is located in an agricultural enterprise area that DATCP has designated by rule under s. 91.84, Wis. Stats., in response to a local petition.
- The land is operated as part of a farm that produced at least \$6,000 in gross farm revenues during the tax year preceding the year in which the landowner applies for the agreement, or a total of at least \$18,000 in gross farm revenues during the last 3 tax years preceding the year in which the landowner applies for the agreement. Gross farm revenues means gross receipts from agricultural uses, less the cost or other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. Gross farm revenue includes receipts accruing to a renter, but does not include rent paid to the landowner. However, gross farm revenue produced by the renter on the landowner's farmland can be used to meet this eligibility requirement. Only the landowner may claim tax credits.

Compliance with Soil and Water Conservation Standards: The farm associated with the covered land must meet the applicable soil and water conservation standards in place on the date the agreement is effective (see s. ATCP 50.04, Wis. Adm. Code). The agreement takes effect when it is signed by all landowners and the department. Contact the county's conservation department for more information on the soil and water conservation standards.

Part 3: Parcel Information for Covered Land

In order to develop an accurate farmland preservation agreement, the applicant must provide DATCP with information about the parcels to be included for coverage under the agreement. The application includes a worksheet called the "Covered Land – Parcel Worksheet" to aid in gathering required parcel information.

Part 4: Other Required Signatures

A landowner applying for a farmland preservation agreement must disclose all of the following in the application (DATCP may require a formal title search or third-party documentation, but does not ordinarily do so):

- *Other owners of the covered land.* All owners must sign the application and the farmland preservation agreement.
- *Life estate holder on the covered land.* All life estate holders must sign the application and the farmland preservation agreement.
- *Seller (or seller's successor in interest) as well as the purchaser (vendee) under any existing land contract affecting the covered land.* These interests must sign the application and the farmland preservation agreement.
- *Persons holding other real estate interests in the farm* (such as mortgage, lien, lease, easement, right-of-way or mineral interests). These other interests must sign the agreement application signifying notification of the agreement application. These other interests are not required to sign the farmland preservation agreement.

DATCP may exclude land from coverage if clouds on title, or conflicting real estate interests are not resolved to DATCP's satisfaction.

WHAT ARE THE NEXT STEPS?

County Review

Once complete, the county must review the application to determine whether the land covered by the proposed agreement meets all of the following requirements:

- The land is located in a farmland preservation area identified in the county's certified farmland preservation plan.
- The land is located in an agricultural enterprise area that DATCP has designated under s. 91.84, Wis. Stats.

Within 60 days after the County Clerk receives a complete application, the county must make its findings and give a copy to the applicant. If the county finds that the above requirements are met, it must send a completed application and attachments to DATCP.

DATCP Review

DATCP will review each application forwarded by a county. If everything is in order, DATCP may enter into a farmland preservation agreement with the landowner. DATCP may decline to enter into an agreement if any of the following apply:

- The application is incomplete.
- The covered land is not located in a farmland preservation area identified in a certified county farmland preservation plan.
- The covered land is not located in an agricultural enterprise area that DATCP has designated under s. 91.84, Wis. Stats.
- The landowner fails to provide clarifying information or documentation reasonably required by DATCP.
- Any owner of the covered land fails or refuses to sign the agreement.
- The covered land is subject to conflicting uses or property interests that materially impair the purposes of the agreement, and the conflicts cannot be resolved to DATCP's satisfaction.

Agreement Preparation

DATCP will prepare a farmland preservation agreement, based on the attached "Farmland Preservation Agreement Application Form". All required signatories must sign the final agreement contract. Signatures must be notarized.

Agreement Recording

DATCP will record the signed farmland preservation agreement with the county Register of Deeds (DATCP will pay the recording fee). The agreement takes effect when signed by all required parties and DATCP. The agreement runs with the land and is binding on subsequent owners of the covered land, for the duration of the agreement.

CAN LAND (SOME OR ALL) BE RELEASED FROM COVERAGE UNDER AN AGREEMENT?

At any time prior to the expiration of a farmland preservation agreement, DATCP may release land from coverage under the agreement (including an agreement created prior to July 1, 2009). DATCP may release all or part of the land covered by the agreement (a complete release terminates the agreement). A release must be requested on a release form from DATCP, signed by all persons having an ownership interest in the covered land at the time of the request. Before DATCP grants a release:

- DATCP must find that the release will not impair or limit agricultural use of other protected farmland in the area.
- The landowners requesting the release must collectively pay a conversion fee as provided in s. 91.66(1)(c), Wis. Stats. The amount of the conversion fee is based on the amount of land released. Conversion fee revenues are deposited to the state Working Lands Trust Fund.

If DATCP releases land from coverage under a farmland preservation agreement prior to the expiration date of the agreement, DATCP must record a copy of the release with the county Register of Deeds (the release takes effect on the recording date).

These release procedures do *not* apply to the normal expiration of a farmland preservation agreement at the end of its specified term. That expiration occurs automatically without any further action or recording by the landowner or DATCP and without any payment of conversion fees.

A landowner who wishes to apply for the release of land from an existing farmland preservation agreement prior to the scheduled expiration date of the agreement, should submit a completed request to release land from a farmland preservation agreement form. If a landowner has specific questions or concerns, they may call 608-224-4633, send an email to DATCPWorkingLands@wisconsin.gov, or send a written request to the address at the top of page one.