



Wisconsin Farmland Preservation Program

2019-2021 Biennial Report

WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION





State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary Randy Romanski

Greetings,

In Wisconsin, 14.3 million acres are dedicated to agriculture, and the industry provides 11.8% of the state's employment. Yet, agriculture has an even broader impact on our Wisconsin way of life. Here, farmers serve as a significant economic driver, feed our communities nutritious foods, strengthen the fiber of communities across the state, and preserve our rich soil and vital water resources.

Wisconsin's Farmland Preservation Program helps farmers and local governments preserve and protect these resources by identifying trends and promoting future agricultural land use. It highlights an interconnected relationship – farmers and local governments sustain the land and water resources, and the land and water resources sustain our state's economy.

Each biennium, the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP), in cooperation with the Wisconsin Department of Revenue (DOR), provides a report on the Farmland Preservation Program to the DATCP Board and the Wisconsin Department of Administration (DOA). This 2019-21 biennial report includes information on zoning, Agricultural Enterprise Areas (AEAs), planning grants, and much more.

It is clear – in Wisconsin, agriculture is our past, present, and future. This preservation program and the tools it offers supports farmers, who serve as the backbone of our communities, and protects our land and water resources, which set Wisconsin apart. Thank you for your interest and attention to the 2019-21 biennium report.

Sincerely,

A handwritten signature in cursive script that reads "Randy Romanski".

Randy Romanski
Secretary

Wisconsin - America's Dairyland

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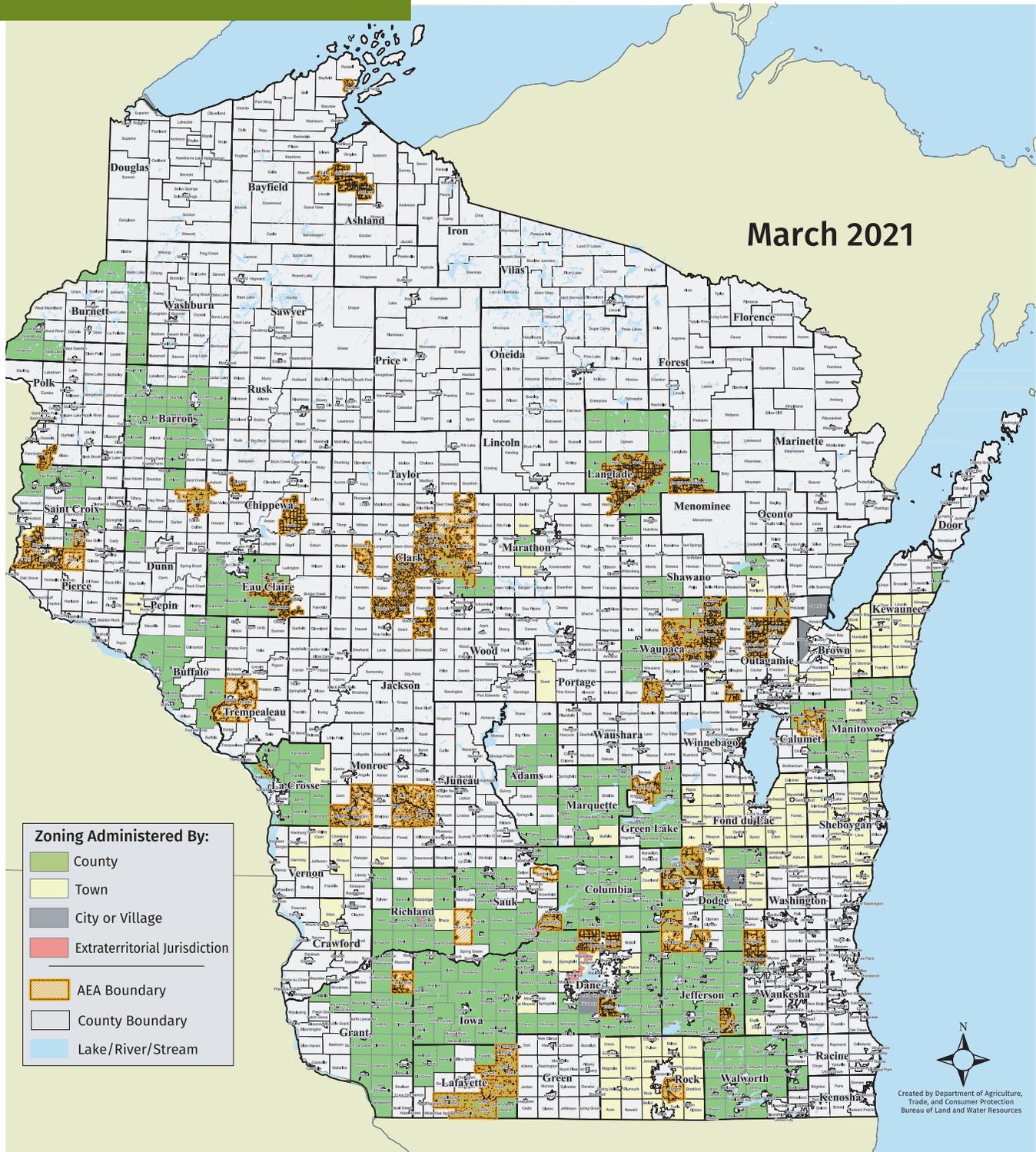
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Farmland Preservation Participation Map

March 2021



Map 1. Programmatic Map during 2019-21 Biennium. This map shows jurisdictions in the state with farmland preservation zoning and boundaries of designated Agricultural Enterprise Areas.

Wisconsin’s diverse agricultural community is fundamental to the state’s character and economy. Annually, agriculture contributes \$104.8 billion to the state’s economy and 435,700 jobs (11.8% of the state’s employment). Farmland preservation continues to be critical to conserving Wisconsin’s agricultural land base and improving soil and water health. The agricultural industry is ever changing and that was exemplified in the last biennium’s trends of farmland consolidation, increasing rental rates, fluctuating land values and expanding renewable energy.

Farmland Consolidation

In the 2019-21 biennium the trend of farmland consolidation across Wisconsin continued. As illustrated in Figure 1, the number of farm operations in the state has decreased over the last decade while the average number of acres per operation has increased. More specifically, the number of farm operations decreased nearly 10% from 2011 (71,200) to 2020 (64,400). In contrast, the average number of acres per operation grew from 205 acres in 2011 to 222 acres in 2020 – an increase of more than 7% (USDA:NASS, 2021). This trend is likely influenced in part by developments in agricultural technology, which allow individual farm ownership entities to manage more acres (MacDonald and Hoppe, 2018).

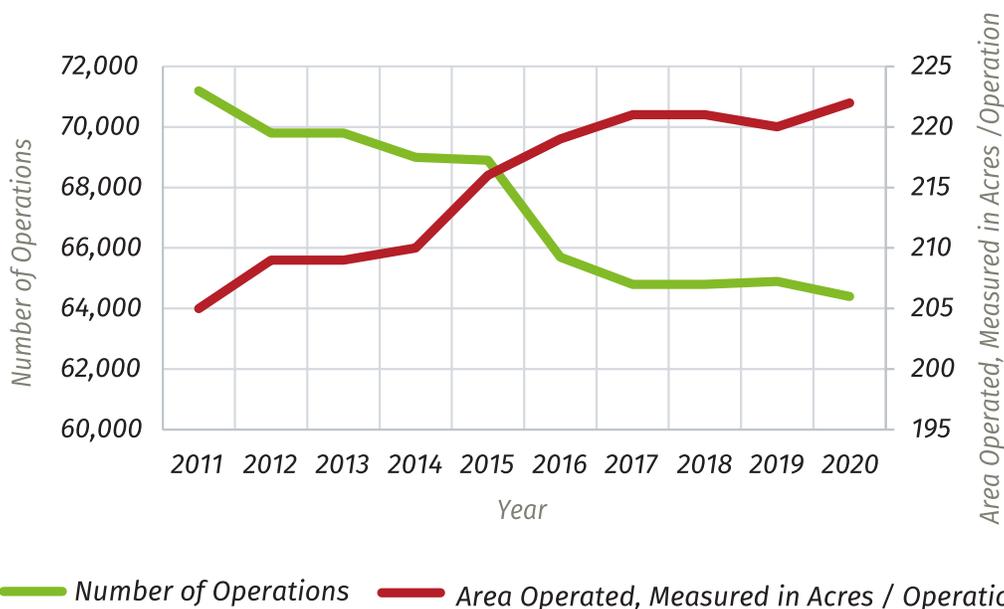


Figure 1. Number of farm operations vs. area operated in Wisconsin 2011-20 (USDA: NASS, Survey data as of 2021).

Land Value

Agricultural land without buildings and improvements is sold on average for more dollars per acre when it is diverted to other uses, compared to when it is bought for continued agriculture use (Figure 2). According to the USDA’s 2016 and 2020 Wisconsin Agricultural Statistics Reports, between 2010 and 2019 agricultural land without buildings and improvements and diverted to other uses sold

Farmland Conversion to Renewable Energy

In Wisconsin from 2005-17, electricity generation from wind energy increased by approximately 1,698.89% and generation from solar energy increased by approximately 1,212.66% (Figure 3) (PSC, 2017). Many states, utilities and private companies are setting goals to expand renewable energy development, combat climate change and reduce greenhouse gas emissions. Long flat stretches of land that are often the best areas for farming are also the preferred type of land for siting solar energy arrays. Goals to expand renewable energy production can create competition between land for agriculture and land for renewable energy production (American Farmland Trust, 2021). Integrating solar energy development with agriculture is an emerging issue in Wisconsin. Many communities are beginning to navigate the development of renewable energy facilities, and in some locations the proposed co-location of renewable energy development and continued agricultural land uses. Local dynamics related to community acceptance of renewable energy siting, stakeholder engagement in project siting, and local political decision making may ultimately have an effect on future county farmland preservation plans (see Farmland Preservation Planning in the next section of this report) and local zoning ordinances.

In Wisconsin, the Public Service Commission (PSC) has review authority over electric generation projects of 100 megawatts (MW) or more, as well as public utility electric generation projects that are less than 100 MW but exceed the cost threshold identified in Wis. Stat. §196.49(5g)(ar). Solar projects and wind farms that will generate less than 100 MW that are proposed by a public utility also require a certificate of authority (CA) from the PSC. Other solar projects and windfarms that will generate less than 100 MW require the approval of a local entity, such as the county or town. Proposed projects may also require wetlands, waterway and construction stormwater permits, among others, from the Department of Natural Resources. During the biennium, the PSC received applications for CA or certificates of public convenience and necessity (CPCN) for 12 solar facilities, starting construction between 2019 and 2022, which cumulatively require more than 20,000 acres of land to site the principal infrastructure. This acreage estimate includes lands that are currently devoted to agricultural, forestry and open space uses, among others. A review of PSC Docket summaries indicates that the total land area included in solar project areas during the biennium is much greater than the 20,000 acres required for principal infrastructure in order to accommodate additional electric generation capacity and alternative panel siting. Solar projects that will generate less than 100 MW may require a conditional use permit under Wis. Stat. § 91.46(4) if sited within a certified farmland preservation zoning district. A local political subdivision's authority to restrict the installation of solar and wind energy systems is limited by Wis. Stat. § 66.0401(1m).

During 2021, state Assembly Bill 525 and Senate Bill 522 were introduced to create a voluntary "agriculture friendly designation" for ground mounted solar systems in Wisconsin. Under the proposed legislation, the PSC would designate a solar installation as agriculture-friendly if various requirements are satisfied, including that the installation be managed to promote agricultural activity. At the time of this report, the legislation had been referred to the Assembly Committee on Energy and Utilities and Senate Committee on Utilities, Technology and Telecommunications. Looking forward, Wisconsin will need to continue examining avenues to balance the statewide priorities of promoting renewable energy and farmland preservation.

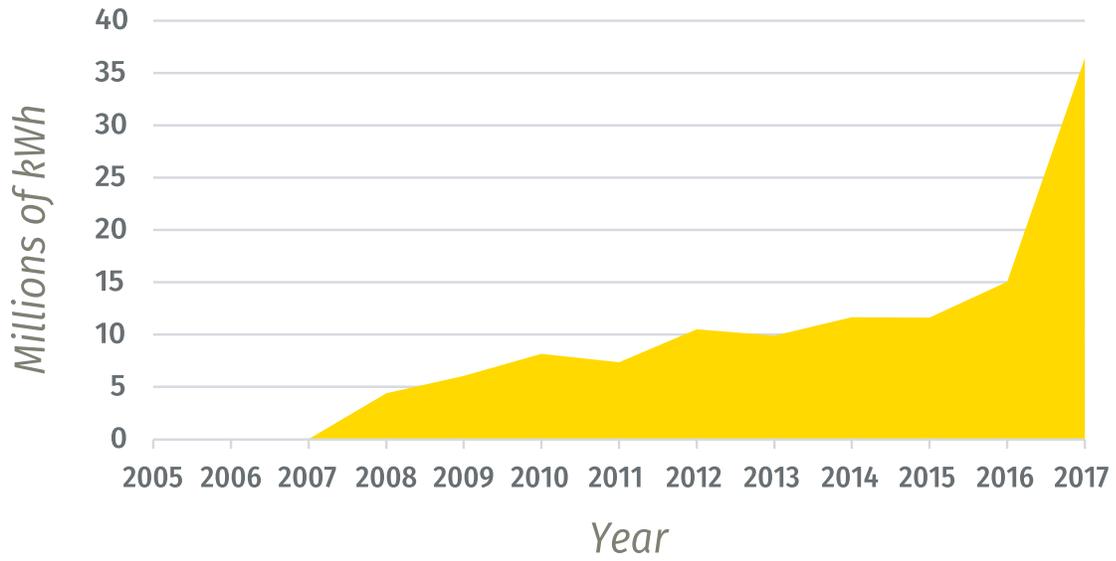
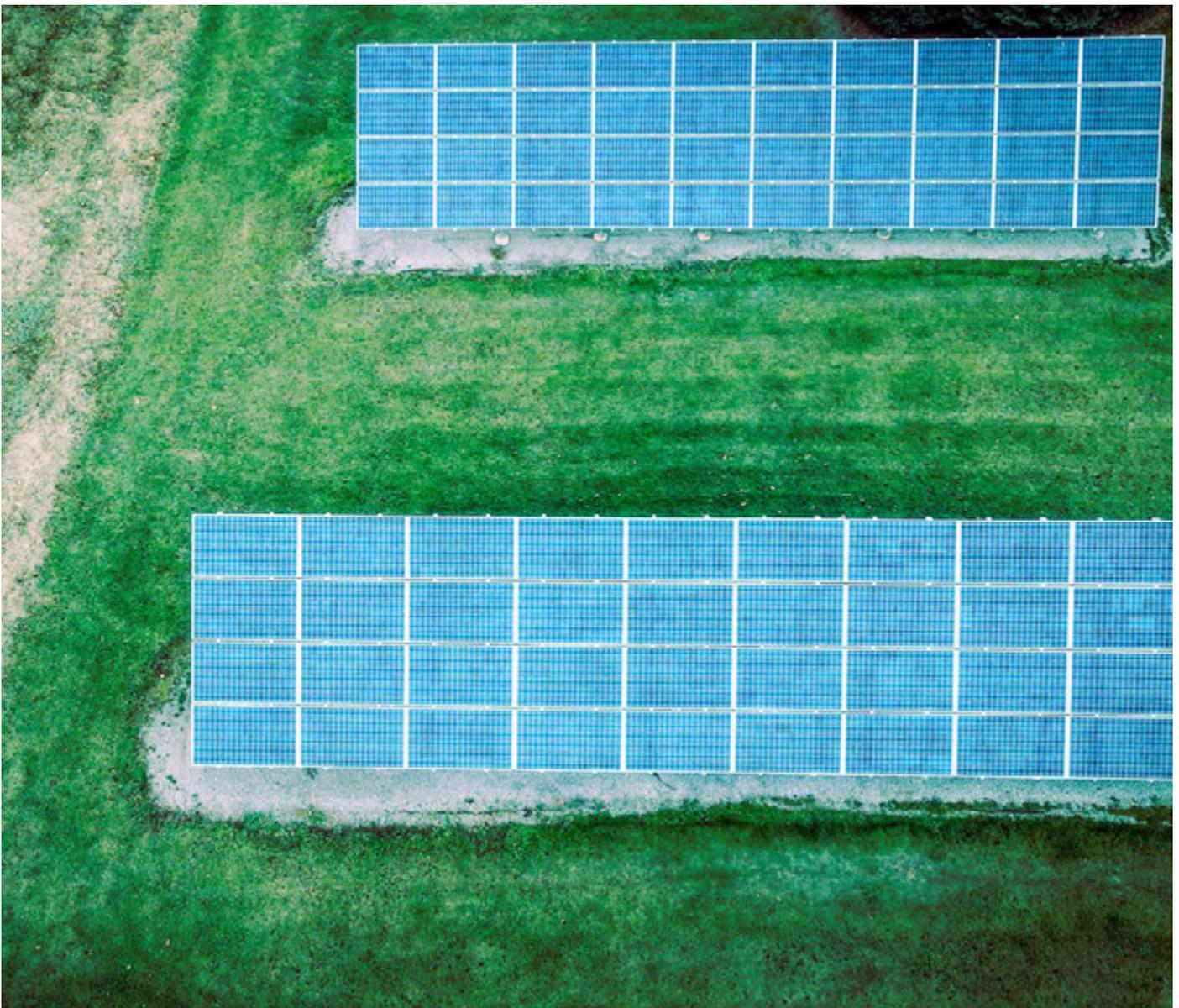


Figure 3. Wisconsin electricity generation from solar energy per year by millions of kilowatt-hours (kWh) (PSC, 2017).



Farmland Preservation Planning

A county farmland preservation plan serves as an overview of agriculture-related activities at the county level. The plan identifies the status of agriculture in that county, anticipates future trends, sets the tone for policies related to agricultural development, and identifies areas a county expects will remain in agricultural use for the foreseeable future. Planning 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, agricultural enterprise area designation and farmland preservation agreements. In the 2019-21 biennium, counties across the state continued to update their farmland preservation plans allowing interested landowners and local governments to take advantage of other program components.

During the 2019-21 biennium, DATCP certified 10 new or amended farmland preservation plans (Table 1). This reflects the dynamic nature of land use planning around the state. Updating a farmland preservation plan provides counties with an opportunity to evaluate existing land uses, consider the role that agriculture plays in local communities and economies, and evaluate how to plan for agriculture into the future.

Table 1: Farmland Preservation Plan Certifications 2019-2021

<i>County Name</i>	<i>Initial Certification</i>	<i>Certification Type</i>	<i>Year of Amendment or Revision</i>	<i>Expiration Date</i>
Calumet	2009	Full Plan	2019	2029
Grant	2011	Both Amendment	2019	2023*
Sheboygan	2013	Map Amendment	2019	2023
Waupaca	2014	Map Amendment	2019	2024
St. Croix	2012	Map Amendment	2019	2022
Winnebago	2012	Full Plan	2020	2030
Marquette	2015	Map Amendment	2020	2025
Dunn	2016	Both Amendment	2020	2026
Outagamie	2012	Map Amendment	2021	2022
Jefferson	2011	Full Plan	2021	2031

**Grant County was granted a two-year extension of the expiration for its Farmland Preservation Plan pursuant to ATCP 49.10(2) in May of 2021 from 2021 to 2023.*

Despite the potential benefits of planning for farmland preservation, several counties have chosen not to update their farmland preservation plans (Map 3). Some reasons for not planning for farmland preservation may include limited agricultural land base, limited interest in participating in other aspects of the program and, at times, the perception that the cost of participating in the program may outweigh the benefits for landowners. As a result, landowners in these counties cannot petition for agricultural enterprise areas and local zoning authorities may not certify a farmland preservation

ordinance unless the counties choose to update their plans at a later date. Taylor County, illustrated as non-participatory during the 2019-21 biennium, submitted a plan for farmland preservation certification at the beginning of the 2021-23 biennium.

As a county considers how to develop a farmland preservation plan, it must identify local areas important for the future of agriculture. The criteria used to identify these areas must be based on objective criteria and may not be based on landowner preference. A plan area must not include lands planned for development within the next 15 years. Because productive agriculture may not be compatible with non-agricultural uses, planning based on subjective criteria can lead to land use conflicts and farmland preservation plan maps that contain islands of farmland. Planning based on objective criteria is intended to protect large contiguous blocks of farmland.

The most commonly applied criteria for including lands within a farmland preservation plan area during the 2019-21 biennium were: lands historically used for agriculture, forestry or related uses; lands currently intended for agricultural, forestry or related uses; soils compatible with agricultural uses; proximity to agriculture-related infrastructure; and undeveloped natural resources or open spaces that connect farmland to created large, uninterrupted blocks of preserved land. The most commonly applied criteria for excluding lands from a farmland preservation plan area included: land identified for future developmental use; tax exempt lands; lands within or adjacent to cities or villages; and existing lands in conflict with farmland preservation planning. These criteria have been commonly applied across past biennium.

Under Wis Stat. § 91.10(1)(d), a farmland preservation plan must clearly identify areas that the county plans to preserve for agricultural use and agricultural-related uses for the foreseeable future. The plan area may not include lands that are planned for nonagricultural development within 15 years after the date on which the plan is adopted. Typically, in a land use planning and zoning context, renewable energy generation is categorized as either an accessory or commercial/utility use. This distinction is made based on where the energy is generated and later being used. Energy that is both generated and solely used on site is considered an accessory use. Energy that is generated on site but partially or entirely used elsewhere is considered a commercial or utility use.

- Accessory (Wis. Stat. § 91.44(1)(b) or Wis. Stat. § 91.46(1)(b)) and commercial renewable energy generation (Wis. Stat. § 91.44(1)(f) or Wis. Stat. § 91.46(1)(f)) may be authorized uses in farmland preservation zoning districts.
- Under Wis. Stat. § 91.84(1)(e)5., criteria for designation of an Agricultural Enterprise Area (AEA) require that the land be primarily devoted to agricultural use, having the meaning given in Wis. Stat. § 91.01(2). If as the result of a change in land use an AEA is no longer devoted primarily to agricultural use, DATCP may modify the AEA boundary by order. Energy generation is not an agricultural use for the purposes of Wis. Stat. § 91.01(2).
- Renewable energy uses that qualify as an agricultural accessory use on a farm may be sited on lands enrolled in a farmland preservation agreement under Wis. Stat. § 91.62(1)(c)1. Commercial energy production may not be sited on lands enrolled in an effective farmland preservation agreement.

Under the current framework of the farmland preservation law, renewable energy facilities may be included in farmland preservation plan areas, depending on local planning criteria. Commercial or utility renewable energy generation often requires a large land base to generate energy for a group or community. Facilities may require hundreds or sometimes thousands of acres. Given the scale of

commercial or utility renewable energy projects in contrast to traditional utility uses, the impact of siting these projects in agricultural areas is becoming a growing topic of discussion in land use planning.

Some planning authorities have started to more carefully consider renewable energy infrastructure in the context of development. In some circumstances, access to a utility may be a criteria for planning agricultural lands for future development. Consequently, when planning for farmland preservation any lands that are planned for development within the next 15 years must be excluded from the farmland preservation plan area per Wis. Stat. § 91.10(1)(d). One plan fully certified during the biennium included discussion from an agricultural focus group that specifically discussed solar energy projects and how they may affect future land use in agricultural areas. Looking ahead to future biennium, planning discussions related to the siting of commercial or utility renewable energy projects in farmland preservation areas will continue to grow.

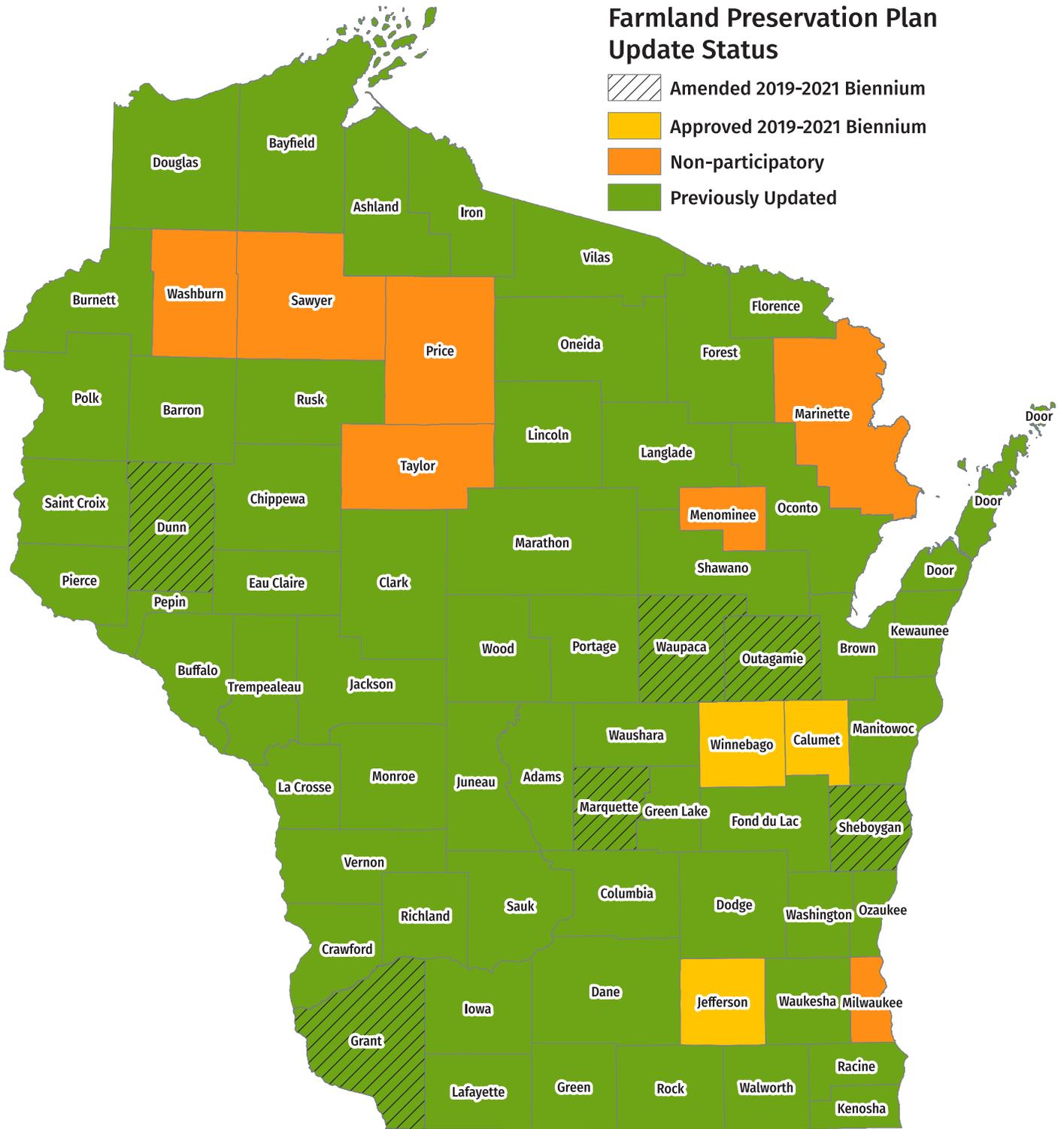
Between 2019 and 2021 DATCP certified three full farmland preservation plans, bringing the number of plans updated since 2009 to 65 (Map 3). During the same period, the department certified seven farmland preservation plan amendments. There are a number of reasons to revise a certified farmland preservation plan including: mapping updates required for concurrent certification of a farmland preservation zoning ordinance, mapping changes required to designate an agricultural enterprise area, changes to a local comprehensive plan, or adding towns previously not planned for farmland preservation. Since 2009, counties have had the option to request an extension of the plan expiration date for one or two years to coordinate the farmland preservation planning process with other planning or zoning efforts. This has ultimately caused the number of planning expirations to fluctuate from year to year. Looking to the next biennium, there will be 20 counties with plans expiring during 2022 and 2023.

During the 2019-21 Biennium, DATCP awarded \$70,077 in planning grant funds to five counties for completing and updating farmland preservation plans. DATCP is eligible to pay up to half of the costs of completing or updating a farmland preservation plan through a planning grant contract. This means that during the biennium, counties invested more than \$140,000 in planning for the future of agriculture and participation in the program. Planning grants continue to be a critical resource as counties plan for their second farmland preservation plan certifications since 2009 and other counties weigh the options of planning for the first time. The demand for county planning grant funding may be variable in years where there are limited plan expirations. Providing grants for planning is a foundational step to ensure that local governments and landowners have planned for the future of agriculture at the local level and will subsequently have the option to apply for certification of a local farmland preservation zoning ordinance or petition for an AEA in the future.

Map 3. Farmland Preservation Plans during the 2019-21 biennium.

Farmland Preservation Plan Update Status

-  Amended 2019-2021 Biennium
-  Approved 2019-2021 Biennium
-  Non-participatory
-  Previously Updated



Farmland Preservation Zoning

Farmland preservation zoning is a tool available to local governments to help protect productive agricultural lands. A farmland preservation zoning district provides dedicated areas for agriculture and compatible uses. It also prevents neighboring land use conflicts by requiring incompatible uses to be located in a different zoning district. Zoning districts are certified for farmland preservation using the standards laid out in Wis. Stat. § 91. Farmers who own land located within a farmland preservation zoning district may be eligible to claim the farmland preservation tax credit. All lands zoned for farmland preservation must be located within a certified farmland preservation plan area, though not all of the plan area must be included in the zoning district. Not all cities, towns, villages, and counties in Wisconsin have a certified farmland preservation zoning ordinance. Those that do, however, must recertify their ordinances according to a set schedule. See Map 4 for all certified farmland preservation ordinances statewide.

While the majority of ordinances certified from 2019-21 were updates to existing ordinances (Table 2), farmland preservation zoning has continued interest from a number of local municipalities that did not previously have farmland preservation zoning. Since July 2019, staff have completed 25 preliminary reviews of ordinances for local jurisdictions that are either recertifying or did not previously have certified ordinances. Staff have also contacted zoning jurisdictions with existing general zoning districts that are already close to meeting the certification standards in Wis. Stat. § 91.

Landowners who claim the farmland preservation tax credit under certified farmland preservation zoning must meet the state soil and water conservation standards enumerated in the Conservation Compliance Section of this report.



Map 4. Certified Farmland Preservation Zoning Ordinances by zoning authority, 2019-21 biennium.

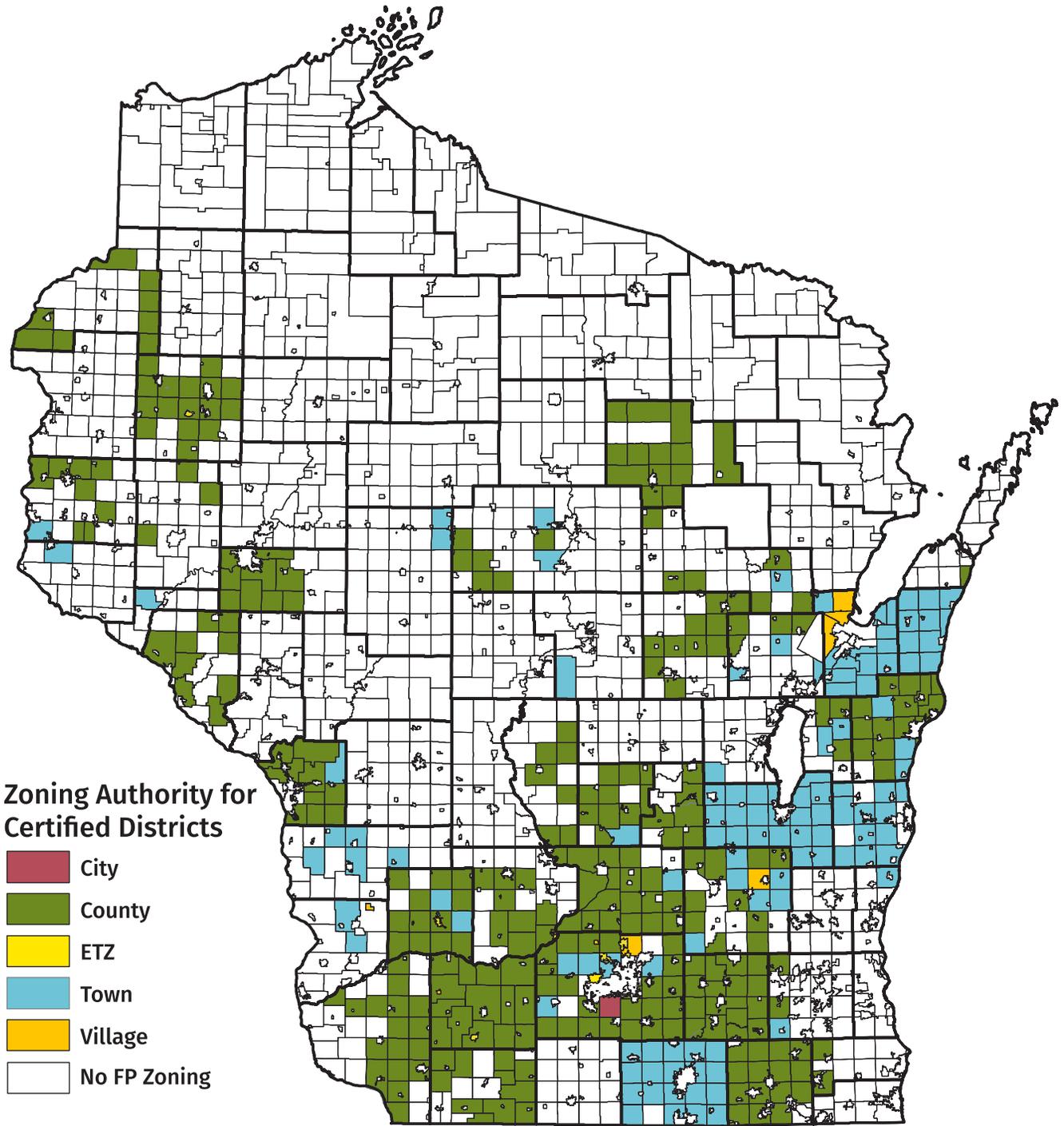


Table 2: Farmland Preservation Zoning Ordinance Certifications 2019-21

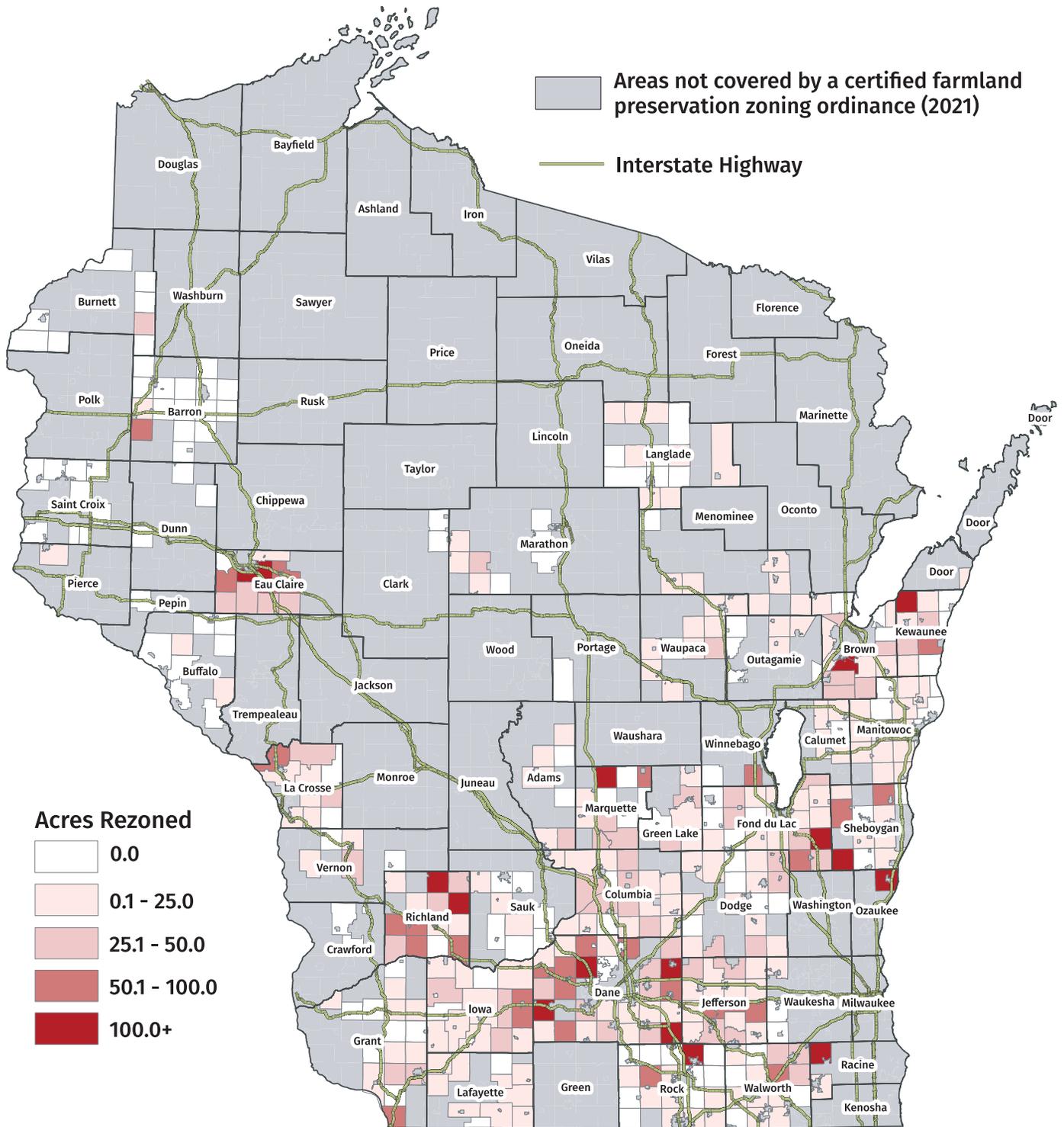
<i>County</i>	<i>Jurisdiction</i>	<i>Zoning Authority</i>	<i>Certification Type</i>
Brown	Town of Humboldt	Town	Full
Brown	Town of Glenmore	Town	Full
Brown	Town of New Denmark	Town	Full
Brown	Town of Green Bay	Town	Full
Brown	Town of Morrison	Town	Full
Brown	Town of Ledgeview	Town	Full
Calumet	Calumet County	County	Full
Crawford	Town of Utica	Town	Full
Crawford	Town of Haney	Town	Full
Dodge	Town of Hubbard	Town	Full
Kewaunee	Town of Pierce	Town	Full
Lafayette	Lafayette County	County	Full
Richland	City of Richland Center	ETZ	Full
Richland	Town of Rockbridge	Town	Full
Richland	Town of Ithaca	Town	Full
Rock	Town of La Prairie	Town	Full
Sheboygan	Town of Sheboygan Falls	Town	Full
Sheboygan	Town of Greenbush	Town	Full
Waupaca	Waupaca County	County	Map Amendment

Farmland Preservation Rezones

Every year, local governments with a certified farmland preservation zoning district must report the number of rezones and the acres of land rezoned out of a certified farmland preservation zoning district during the preceding year. There were 4,257 acres rezoned out of certified farmland preservation zoning districts in 2019 and 4,040 acres in 2020. During the biennium, 55 zoning jurisdictions reported zero acres rezoned out of a farmland preservation district, two of which were counties.

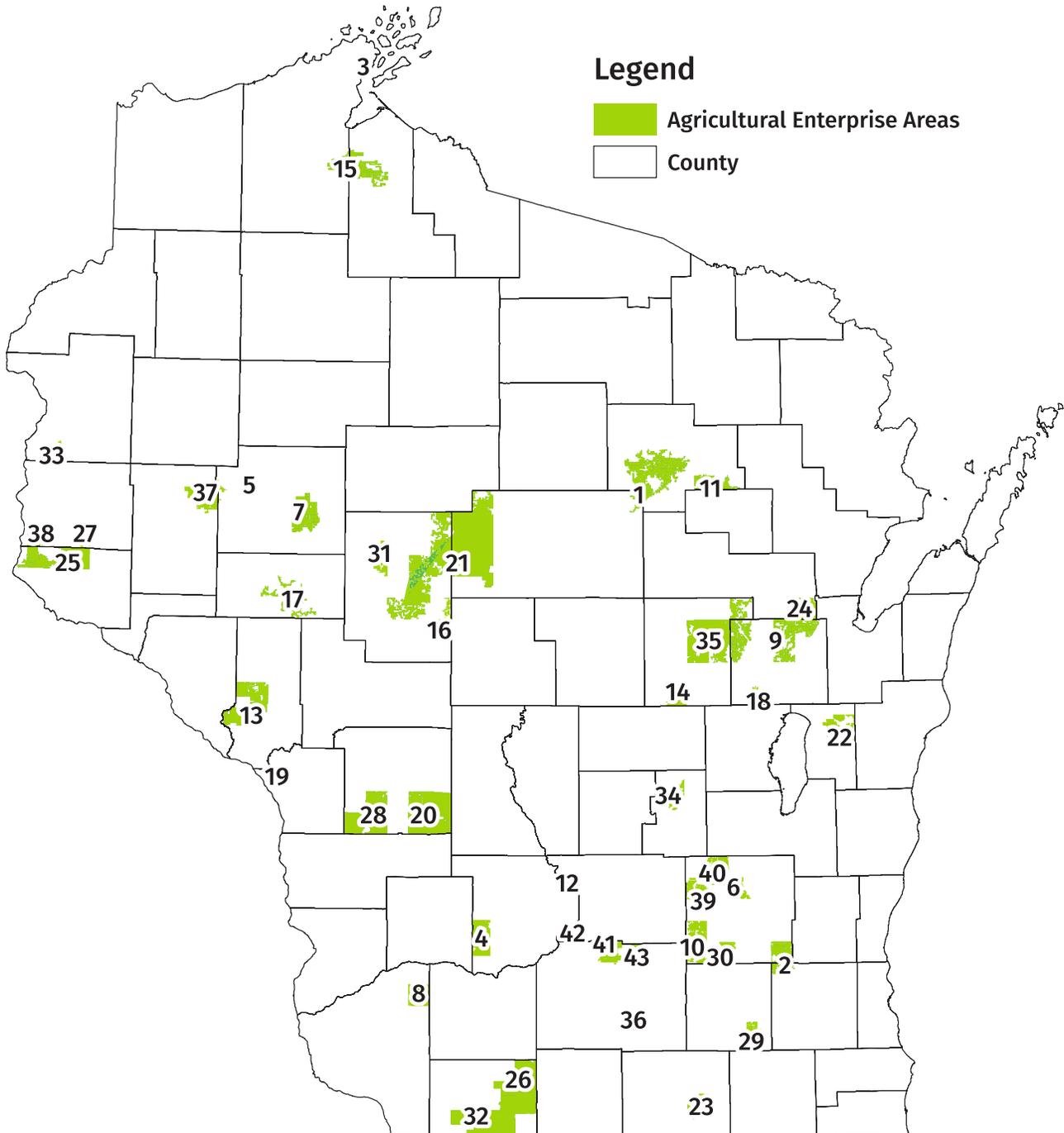
See Map 5 for an illustration of reported acres rezoned for each town, city or village located in a certified farmland preservation zoning ordinance during the biennium. All rezones are depicted per town, city or village to allow for more accurate spatial analysis amongst different sized zoning jurisdictions. During the biennium, the greatest amount of acres rezoned from certified districts occurred in areas within an interstate highway corridor, measured as being centrally located within 5 miles of an interstate highway. Out of all towns, cities or villages with reported rezones during the biennium, 63% are located within an interstate highway corridor. In total, 75% of jurisdictional reports with more than 100 acres rezoned and 80% of reports with between 50-100 acres rezoned occurred in towns, cities or villages located within an interstate highway corridor, a total of 34 reports. These 34 reports account for 44% of the total rezoned acres during the biennium, despite representing just 12% of the total towns, cities or villages with reported rezones. This data suggests a correlation between proximity to interstate corridors and rezones due to development pressures within certified farmland preservation zoning districts, although definitive causes are likely more complex.

Map 5. Rezones out of Certified Farmland Preservation Zoning Districts in Calendar Years 2019-20.



Agricultural Enterprise Areas (AEAs)

Map 6. Designated Agricultural Enterprise Areas as of January 1, 2021.



Map ID	AEA Name	County	Township
1	Antigo Flats AEA	Langlade; Marathon	Ackley; Antigo; Neva; Peck; Polar; Price; Rolling; Vilas; Harrison
2	Ashippun-Oconomowoc AEA	Dodge; Waukesha	Ashippun; Merton; Oconomowoc
3	Bayfield AEA	Bayfield	Bayfield
4	Bear Creek AEA	Sauk	Bear Creek
5	Bloomer Area AEA	Chippewa	Bloomer
6	Burnett AEA	Dodge	Burnett
7	Cadott Area AEA	Chippewa	Arthur; Goetz
8	Castle Rock AEA	Grant	Castle Rock
9	Cicero Blackmour AEA	Outagamie	Black Creek, Cicero, Seymour
10	Elba-Portland AEA	Dodge	Elba; Portland
11	Evergreen-Wolf River AEA	Langlade	Evergreen; Wolf River
12	Fairfield AEA	Sauk	Fairfield
13	Farming for the Future AEA	Trempealeau	Arcadia
14	Farming Forward AEA	Waupaca	Lind
15	Fields, Waters and Woods AEA	Ashland; Bayfield	Bad River Band of Lake Superior Tribe of Chippewa Indians; Marengo; Ashland; White River; Kelly
16	Friends in Agriculture AEA	Clark	Fremont; Lynn
17	Golden Triangle AEA	Eau Claire	Washington; Lincoln; Otter Creek; Bridge Creek
18	Greenville Greenbelt AEA	Outagamie	Greenville
19	Halfway Creek Prairie AEA	LaCrosse	Onalaska; Holland
20	Headwaters of Southeast Monroe County AEA	Monroe	Clifton; Glendale; Wellington; Wilton
21	Heart of American's Dairyland AEA	Clark; Marathon	Mayville; Colby; Unity; Beaver; Loyal; Weston; York; Brighton; Hull; Frankfort; Holton; Johnson; Bern; McMillan; Eau Pleine
22	Hilbert Ag Land on Track AEA	Calumet	Brillion; Chilton; Rantoul; Woodville
23	La Prairie AEA	Rock	La Prairie; Turtle
24	Maple Grove AEA	Shawano	Maple Grove
25	North-West Pierce AEA	Pierce	Clifton; River Falls; Martell

Map ID	AEA Name	County	Township
26	Pecatonica AEA	Lafayette	Argyle; Blanchard; Lamont
27	Rush River Legacy AEA	St. Croix	Rush River
28	Scenic Ridge and Valley AEA	Monroe	Jefferson; Portland; Wells
29	Scuppernong AEA	Jefferson	Cold Spring; Hebron; Palmyra; Sullivan
30	Shields-Emmet AEA	Dodge	Shields; Emmet
31	South Fork AEA	Clark	Mead; Reseburg
32	Southwest Lead Mine Region AEA	Lafayette	Gratiot; Monticello; Shullsburg; Wiotia
33	Squaw Lake AEA	Polk; St. Croix	Alden; Farmington; Somerset; Star Prairie
34	St. Marie AEA	Green Lake	St. Marie, Princeton
35	Three Rivers AEA	Outagamie; Waupaca	Bear Creek; Deer Creek; Maple Creek; Union; Little Wolf; Lebanon; Matteson
36	Town of Dunn AEA	Dane	Dunn
37	Town of Grant AEA	Dunn; Chippewa	Grant; Colfax; Sand Creek; Otter Creek; Auburn; Cooks Valley
38	Town of Troy AEA	St. Croix	Troy
39	Town of Westford AEA	Dodge	Westford
40	Trenton AEA	Dodge	Trenton
41	Vienna-Dane-Westport AEA	Dane	Vienna; Dane; Westport
42	West Point AEA	Columbia	West Point
43	Windsor AEA	Dane	Windsor

AEAs cover more than 1.47 million acres of Wisconsin’s diverse agricultural landscape. With 43 AEAs designated in 28 counties and the Bad River Reservation, each AEA contributes to the statewide effort to protect and conserve important agricultural resources. Currently, DATCP has authority to designate up to 2 million acres.

Wisconsin’s AEA program continues to grow (Map 6). Each AEA is designated by DATCP in response to locally-crafted petitions. An AEA petition brings together local farmers, town and county officials and staff, and supporting agricultural businesses who cooperatively identify important agricultural areas in their community. Through the petition, the community identifies specific goals for the AEA, including supporting the next generation of farmers through maintaining the productivity of agricultural resources, promoting the development of local agricultural processing facilities, and working in conjunction with current local land use controls. The process also starts a conversation between these

groups about the value that agriculture brings to their region, and they are able to discuss their goals for agricultural preservation and economic development. AEAs can be designated in areas without farmland preservation zoning, or in conjunction.

Agricultural landowners within the AEA who meet the other eligibility requirements can sign a 15-year farmland preservation agreement. Those landowners who sign a farmland preservation agreement agree to comply with the state soil and water conservation standards. In return, they may claim the farmland preservation tax credit.

Innovation Grants

Over the last biennium, program staff worked closely with Monroe County staff to pilot a program to encourage participation and reinvigorate the original goals of the Southeast Headwaters of Monroe County and Scenic Ridge and Valley AEAs. The goal of this project was to increase conservation compliance and acres planned for nutrient management within Monroe County's two AEAs by offering an incentive payment of \$2,000 to landowners who sign a new farmland preservation agreement to help offset the cost of achieving compliance.

In 2020, Monroe County increased the amount of acres covered by farmland preservation agreements by 33% and nearly doubled the average number of acres enrolled annually. With the success of this program in Monroe County, several other counties applied for grant funding in 2021 to implement their own incentive program. Each program is crafted to best meet the goals and serve the community within the AEAs within that specific county. These grants, in addition to meeting local goals, help broadly meet the preservation and economic development goals that are the foundation of the AEA program. If this program continues to be successful, it will be one more tool that AEAs can use to achieve conservation, economic development and preservation goals.

Outreach in AEAs

Over the last biennium, program staff worked to transition workshops, trainings and meetings online. Staff were able to virtually connect with town officials, county staff and landowners across Wisconsin. The process has allowed staff's outreach efforts to be more accessible in places where internet and rural broadband is available. Where internet and rural broadband is *not* available, the COVID-19 pandemic limited the amount of in-person outreach that could be done. Program staff coordinated at least one outreach and educational meeting in partnership with local government entities and landowners that were petitioning for a new AEA or AEA modification. Staff were able to facilitate two in-person meetings and four digital meetings for communities that were contemplating an AEA petition. Staff worked with counties to share program information by mail in AEAs where county staff needed an alternative way to engage with landowners. Program staff coordinated with local partners to craft and distribute at least 15 unique publications specific to local goals, objectives and geographies to landowners in AEAs across the state.

During the biennium, program staff also worked with counties that currently have an AEA to reinvigorate participation and meet original goals for those AEAs. Staff worked with counties that do not have AEAs or certified zoning to show how an AEA could add value to their local conservation programming. In the next biennium, program staff will continue to explore innovative ways to share program information and engage with landowners and county land conservation staff, look for ways to add value to designate AEAs, and support goals identified by petitioners.

Farmland Preservation Agreements

Landowners with farmland within a designated AEA can voluntarily enter into a 15-year farmland preservation agreement. By agreeing to meet the state’s soil and water conservation standards – and limiting covered lands to agricultural, accessory and open space land uses – these agreements provide a way for landowners to protect their farmland. Commercial, industrial or residential uses such as commercial solar arrays, private rural residential housing not associated with a farm or nonmetallic mines are not allowed under a farmland preservation agreement. Eligible agreement holders may claim the farmland preservation tax credit at the rate of \$5 per acre, or \$10 per acre if the land is also located in a certified farmland preservation zoning district.

Since July 1, 2009, DATCP has signed 798 farmland preservation agreements covering 177,569.6 acres, which is a total of 12% of the eligible acreage. The area covered by effective farmland preservation agreements across the state is equivalent to the size of 7.7 full-size townships. Map 7 shows the percent of agricultural enterprise areas covered by effective farmland preservation agreements by county. Over the last biennium, an additional 75 agreements were signed across the state covering a total of 19,934.2 acres. Table 3 shows the number of effective farmland preservation agreements across the state.

Landowners who claim the farmland preservation tax credit on a post-2009 farmland preservation agreement must meet the state soil and water conservation standards enumerated in the Conservation Compliance Section of this report.

Pre-2009 Agreements

Although all new agreements must be signed within a state-designated AEA, there are still effective farmland preservation agreements that were signed prior to July 1, 2009. These agreements are still located across much of the state but continue to expire each year. Map 8 shows the number of agreements remaining in each county across the state.

Landowners with an effective farmland preservation agreement signed before 2004 are required to achieve “T” or tolerable soil loss on their farm to maintain compliance with soil and water conservation standards. Landowners with an effective farmland preservation agreement signed between 2004 and 2009 are required to meet the soil and water conservation standards that were adopted by the county where the farm is located to maintain compliance.

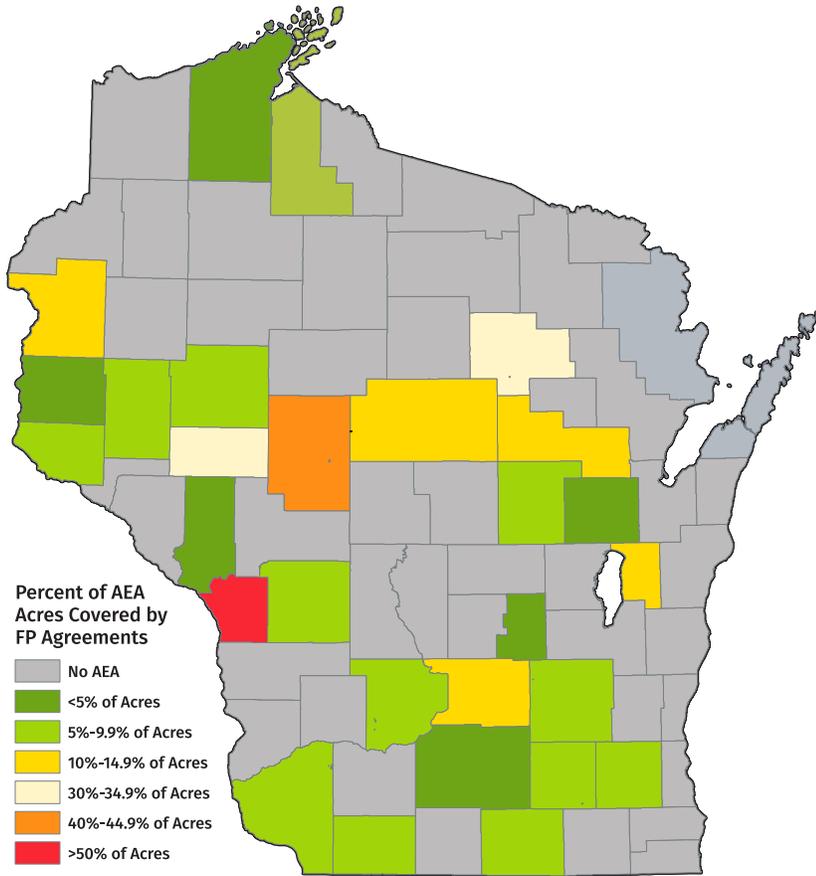
Table 3: Current Agreements as of July 1, 2021

	Number*	Acres
Pre-2009 Agreements	227	45,230.4
Modified Pre-2009 Agreements	39	11,296.1
Post-2009 Agreements	795 (As of June 30, 2021)	176,440.9
Total Agreements	1,061	232,967.4

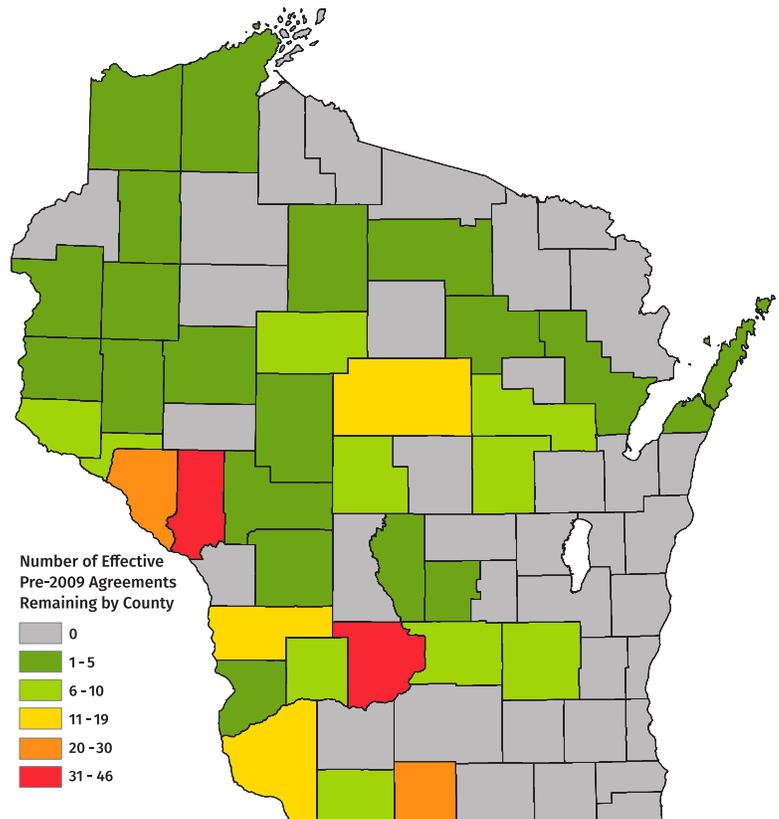
*The total number of farmland preservation agreements counted do not include partial transfers to multiple entities. This number reflects the original contract

number for farmland preservation agreements signed before July 1, 2009.

Map 7. Percent of AEA acres by county covered by effective post-2009 FP agreements.



Map 8. Number of effective pre-2009 agreements remaining by count.



Farmland Preservation Tax Credits

To claim the farmland preservation tax credit, all landowners must meet the following eligibility requirements:

- Own land that is located in a certified farmland preservation zoning district and/or covered by an effective farmland preservation agreement.
- Be Wisconsin residents. Corporations that wish to claim the credit must be organized under the rules of Wisconsin.
- Produced at least \$6,000 gross farm revenue during the taxable year of the claim or \$18,000 during the previous three tax years.
- Be in compliance with state soil and water conservation standards.
- Must not have claimed the homestead credit or the veterans and surviving spouses property tax credit for the same tax year.

Schedule FC

Some landowners still claim the farmland preservation tax credit using tax Schedule FC if they own lands subject to an effective farmland preservation agreement signed before 2009. Landowners who are eligible to participate in the program by owning land in a certified farmland preservation zoning district, or in a farmland preservation agreement signed or modified after July 1, 2009, may not file tax credit claims using tax Schedule FC. During the biennium, 62 pre-2009 farmland preservation agreements expired covering more than 11,900 acres.

Table 4: Farmland Preservation Tax Claims on Schedule FC for Tax Years 2016-19

Year	Claims	Credit	Acres	Average Credits Awarded/ Claim	Average Acres/ Claim
2016	1162	\$762,246	203,575	\$655.98	175.19
2017	969	\$642,410	170,222	\$662.96	175.67
2018	852	\$533,133	144,887	\$625.74	170.06
2019	701	\$428,646	119,382	\$611.48	170.30

Estimated tax claims¹ filed on Schedule FC during the last two biennium are depicted in Table 4. The number of claims and credits awarded under Schedule FC have continued to shrink as the number of acres under effective pre-2009 farmland preservation agreements declines. However, the average

¹ Farmland preservation tax credit claims may be filed up to four years after the unextended deadline of the applicable year's tax return. The claims in the table have not been adjusted to reflect claims that may have been filed on amended tax returns during a different fiscal year.

of Map 8 to Map 9 illustrates a trend of absentee landownership for pre-2009 farmland preservation agreements. For example, Map 8 depicts that there are no effective pre-2009 agreements in Dane County, however, Map 9 illustrates that the greatest number of claims and credits awarded by county on Schedule FC were for claimants domiciled in Dane County.

Schedule FC-A

Most landowners who participate in the program use tax Schedule FC-A, indicating that their land is located in a certified farmland preservation zoning district, is covered by a farmland preservation agreement signed or modified after July 1, 2009, or both. Landowners who own land subject to an effective post-2009 or modified agreement may claim \$5/acre. Landowners who own land located in a certified farmland preservation zoning district may claim \$7.50/acre. Landowners who own land located in a farmland preservation zoning district and covered by an effective farmland preservation agreement signed or modified after July 1, 2009, may claim \$10/acre on tax Schedule FC-A.

Table 5: Farmland Preservation Tax Claims on Schedule FC-A for Tax Years 2016-19

Year	Claims	Credit	Acres	Average Credits Awarded/ Claim	Average Acres/ Claim
TY 2016	10,710	\$15,829,168	2,086,431	\$1,477.98	194.81
TY 2017	10,635	\$15,615,304	2,061,629	\$1,4668.29	193.85
TY 2018	10,712	\$15,941,562	2,108,071	\$1,488.20	196.79
TY 2019	10,572	\$15,838,346	2,089,808	\$1,498.14	197.67
FY20 & TY19 filed in FY21	11,268	\$17,047,999	2,249,618	\$1,512.95	199.64

Row 5. Illustrates payments made in fiscal year 2020 for farmland preservation claims in addition to payments made in fiscal year 2021 related to claims for tax year 2019. An estimated 694 claims in this data row are not related to tax year 2019. See Map 10 for geographic illustration of Row 5 of Table 5.

Most claimants will file their farmland preservation tax claims by the unextended due date for that applicable tax year, but claims may be filed up to four years after the unextended deadline of the applicable year's tax return. Data reported for timely claims made relative to tax year 2019 reflects a 1.3% reduction in the number of claims filed as compared to data reported for tax year 2018. For the same period there was a 0.65% reduction in the number of credits awarded and a 0.86% reduction in the number of acres claimed on. For the last two biennium, average acres per claim on Schedule FC-A have hovered around 200, just short of Wisconsin's average farm size of 221 acres. Data in Table B rows 1-4 have not been adjusted to reflect claims filed on amended returns in subsequent fiscal years.

Row 5 of Table 5 includes an estimated 696 claims filed during fiscal year 2020 that were unrelated to tax year 2019 (11,268 - 10,572 claims = 696 claims). Claims may be filed up to four years after the unextended deadline of the applicable year's tax return. DOR reported to DATCP that for all state returns filed in fiscal year 2020, an estimated 93.54% were specific to tax year 2019 claims; an estimated 5.51% were specific to tax year 2018 claims; and an estimated 0.95% were specific to earlier tax years. If a majority of the 696 claims paid out in fiscal year 2020 for tax years preceding tax year 2019 on Schedule FC-A can be attributed to tax year 2018 (assuming that amended farmland preservation returns would be proportional to all state tax returns), this would suggest a trend toward increasing participation, and that DATCP needs to evaluate farmland preservation tax claims within a framework that considers amended returns; this approach requires consideration of both fiscal year data and tax year specific data to evaluate emerging trends.

Conservation Compliance

In order to claim the farmland preservation tax credit, landowners must demonstrate compliance with state soil and water conservation standards. These standards help protect the state's water resources, reduce soil erosion, and encourage the effective management of manure and other nutrients that can impair water quality.

The standards that the landowner must meet 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 NRCS 590 standards employing strategies 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 code, have no visible signs of leakage or failure, and are maintained to prevent the overflow of manure.
- Ensure that unused storage facilities are closed in a way that meets state standards.
- Avoid stacking manure in unconfined piles within 300 feet of streams or 1,000 feet of a lake.
- Divert clean water runoff away from all feedlots, manure storage areas, and barnyards within 300 feet of a stream or 1,000 feet of a lake.
- Limit access to 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 milk house, feed storage or other areas into lakes, streams, wetlands or groundwater.

Issuing Certificates of Compliance

County land conservation departments determine whether a landowner is complying with soil and water conservation standards by conducting farm inspections. If the landowner is found to be in compliance, the county will issue a certificate of compliance. The certificate signifies that the landowner is meeting the conservation standards and, if otherwise eligible, may claim the farmland preservation tax credit. County land conservation departments conduct an inspection of farmland owned by participating landowners at least once every four years to ensure continued compliance with applicable performance standards.

Since the adoption of the certificate of compliance number in 2016, more than 15,100 certificates

of compliance have been issued to FPP claimants by 53 counties. For tax year 2020, certification of compliance data shows that an estimated 12,824 landowning entities were eligible to file farmland preservation tax claims on 2,463,185 acres. This estimate may include lands that have been certified as compliant with state soil and water conservation standards where a landowner does not file a farmland preservation tax credit claim. This acreage estimate excludes certifications for which a notice of noncompliance has been issued by the County Land Conservation Committee under Wis. Stat. § 91.82 and has not subsequently been canceled. When a county determines that a landowner is not complying with the required standards, the county will issue a notice of noncompliance to the landowner. A copy of this notice is sent to DOR to prevent the landowner from claiming the credit until the notice is canceled.

One of the challenges of administering conservation compliance across the state is monitoring the sale and purchase of eligible farmlands. Land conveyances, life events (e.g., marriage, death) and ownership entity name changes affect who is eligible to file a farmland preservation tax claim and for how many acres. Tracking landowner information, land transactions and conveyances, and compliance information can be a significant administrative obligation for all counties with jurisdictions that have farmland preservation zoning or farmland preservation agreements, but especially for those with a robust number of participants. When land is bought or sold, when there is an entity name change, or a change in compliance status, county land conservation departments are working hard to issue or update certificates of compliance, notices of noncompliance and cancellations of noncompliance depending on the situation. Many counties implement unique approaches to monitor land transactions, track participants and compliance status through geographic information systems, custom databases, spreadsheets, annual self-certifications, nutrient management checklists and databases, among others. Implementing conservation compliance and accurately reporting total eligible acres requires a significant investment of human, fiscal and temporal resources in county conservation departments around the state. Looking to the future, DATCP is working with counties to identify the most significant and time consuming obligations associated with the program in hopes to identify efficiencies and needed resources that can be shared amongst counties that administer the program locally.



Antigo Flats AEA, Langlade & Marathon Counties

Program Costs, Issues, Opportunities, and Recommendations

Costs: Planning Grants

Counties may request grant funds to help facilitate planning for agricultural preservation at the local level. Farmland preservation planning grants support local planning efforts and help counties prepare an updated farmland preservation plan. A county may request up to 50% of the costs of preparing a farmland preservation plan, but no more than \$30,000. During the biennium, DATCP awarded \$70,077 in planning grant funds to five counties for completing and updating farmland preservation plans. In fiscal year 2020, \$148,800 of allocated planning grant funding was returned to the general fund for the required 5% agency operations reduction administrative lapse. This biennium corresponded with a period of few plan revisions largely due to: 1) a low number of expirations tied to existing plan certification expirations, and 2) counties with expiring plans requesting extensions to accommodate shifts in planning priorities during the pandemic.

Counties cumulatively spent more than \$140,000 on planning for the future of farmland during the biennium. This number, however, does not include the total amount of time that counties spent on plan map amendments, developing AEAs, crafting farmland preservation zoning ordinances, or evaluating compliance and developing conservation or nutrient management plans. Looking to 2022-23, there are 20 counties with expiring plan certifications. Farmland preservation planning grants continue to be a critical resource to ensure that counties will have the resources to plan for the future of agriculture. However, it can be difficult for counties to find the financial and staff resources necessary to implement the program once a plan has been developed and certified by DATCP.

DATCP will continue to look for opportunities and resources to help citizens and local governments fund the implementation of their county plans, such as AEAs and farmland preservation zoning ordinances. Granting DATCP the authority to invest unused planning grant dollars on local projects to implement certified farmland preservation plans would address some of this challenge. Language to authorize farmland preservation planning and implementation grants was included in the governor's proposal for the 2021-23 budget bill. The implementation grant language was eliminated from the final budget bill that was signed into law.

Investing in plan implementation would help achieve local land use, preservation, conservation and outreach goals. Funding would support objectives such as the development of new farmland preservation zoning ordinances, facilitating economic investment in AEAs, or help mitigating the burden of implementing soil and water conservation standards at the county level (for administration and outreach) or at the landowner level. Landowner assistance through a localized or targeted grant could be achieved through something like an enrollment incentive to defray the costs of coming into compliance or preparing a nutrient management plan. In 2021, Assembly Bill 54 and Senate Bill 68 were introduced with proposed amendments to Chapters 91 (Farmland Preservation)

and 71 (Income and Franchise Taxes for State and Local Revenues). This proposed legislation includes an amendment to authorize farmland preservation planning and implementation grants. As of February 2022, Assembly Bill 54 was referred to the Assembly Committee on Rules, and Senate Bill 68 was available for scheduling.

Costs: Tax Credits

In tax year 2019, timely farmland preservation tax claims totaled \$16.26 million. This is fairly consistent with the credits awarded in tax year 2017, reported as \$16.27 million in the 2017-19 biennial report. Table 5 of the Tax Credits section of this report illustrates a need to monitor claims related to specific tax years beyond those timely claims that are filed by the normal due dates of income tax returns for the state of Wisconsin. Historic data for timely claims has suggested a downward trend in the number of farmland preservation tax claims since the requirement for a Certificate of Compliance Number was enacted on Schedule FC-A for tax year 2016. However, farmland preservation tax credit claims may be filed up to four years after the unextended deadline of the applicable year's tax return. Row 5 of Table 5 illustrates 694 claims related to tax years preceding 2019 that were paid out in fiscal year 2020 and the portion of fiscal year 2021 preceding the conclusion of the biennium. DOR reported the majority of these claims are likely associated with tax year 2018. If that is indeed the case, the result would be a previously unreported increase in the number of claims between tax years 2017 and 2018, perhaps correlated with the increase in total land area covered by certified farmland preservation zoning districts and AEAs during the 2017-19 biennium. DATCP will continue to coordinate with DOR to monitor trends related to retroactive claims looking forward. New data for tax year 2020 should become available in the late fall of 2021 or spring of 2022. Program staff will be looking to monitor any identifiable impacts of the pandemic on: 1) timely tax claims, and 2) trends related to total number of claimants.

Data from the program's 2018 landowner survey reflects that nearly half of survey respondents felt that the tax credit may be too low to make the burden of participation in the program worthwhile. The tiers of the tax credit afforded to landowners that file claims on tax Schedule FC-A – \$5 per acre, \$7.50 per acre and \$10 per acre, depending on how they participate in the program – have not been adjusted since 2009. In 2021, Assembly Bill 54 and Senate Bill 68 were introduced with proposed amendments to Chapters 91 (Farmland Preservation) and 71 (Income and Franchise Taxes for State and Local Revenues). The proposed legislation includes increases to the farmland preservation tax credit and establishes an index to raise the credit in the future according to inflation. Considerations for evaluating or increasing the tax credit include potential increases in participation, investments in conservation and support of farm viability. In October 2021, an amendment was introduced for Assembly Bill 54 and Senate Bill 68 that, if passed, would revise the tiered tax credits starting in taxable years after December 31, 2022.

Increasing the tax credit would be a concrete benefit to landowners but could create additional workloads for county land conservation departments that work to verify farm compliance with the state soil and water conservation standards. Objectively, where increasing farmland preservation and implementing soil and water conservation standards is a matter of statewide importance, additional resources may be required to ensure that this is a practical goal.

A stagnated tax credit may result in loss of current and future participation in the program. As inflation and the cost of maintaining a farm continue to rise, so does the cost to voluntarily come into or maintain conservation compliance on a farm while the tax credit remains the same. As a result, landowners may stop choosing to participate in the program, or opt to not enroll as a new participant, because the financial burden to maintain conservation compliance is, at times, greater than the perceived benefit of participating in the Farmland Preservation Program. County land conservation departments continue

to prioritize programs that encourage voluntary compliance with soil and water conservation standards and meet local land preservation goals. For many counties, the Farmland Preservation Program provides a good return on investment of time and resources to achieve these goals. If participation drops off, or a county does not anticipate a wide adoption of this program by local landowners, the county land conservation department will divert their time and resources from the Farmland Preservation Program onto other programs to achieve their local goals, leading to additional loss of participation options for landowners.

Looking forward, DATCP will continue to produce educational content to illustrate the financial, land use, and conservation benefits that can be achieved through Farmland Preservation Program participation. DATCP also offers resources to assist landowners in writing their own nutrient management plans to provide a vehicle to mitigate the costs of conservation compliance. Program goals for the future of farmland preservation tax credits continue to include: reaching new landowners to afford land use protections, easing some tax burdens, and encouraging the implementation of conservation practices.

Costs: Staff

Currently, DATCP's Farmland Preservation Program is supported by an estimated 3.0 full-time equivalent positions working on farmland preservation planning, AEAs, farmland preservation agreements, farmland preservation zoning, conservation compliance, data tracking, analysis, and reporting. In 2021, a summer intern also staffed the program. A total of \$276,596.53 in segregated funds (SEG) is allocated to these positions annually, including salaries and benefits. During the biennium, several positions supporting the program turned over. New hires engaged in training and started contributing to the program. The program would benefit from additional staffing resources at the state and local levels. At the state and local levels, additional resources could:

- Help craft a more robust training curriculum for land conservation staff, planning and zoning staff, landowners and other local stakeholders.
- Focus on targeted implementation of local preservation and conservation goals.
- Ease the administrative obligations of program tracking and compliance reviews, especially in areas with high levels of participation.

Staff from towns, villages, cities, counties and other state agencies are integral to program operations. Each year, DATCP works with municipal clerks, planners, zoning administrators, committee members, land conservationist staff and team members at DOR to operate the Farmland Preservation Program.

Other Issues, Opportunities, Recommendations

- **Information and Education:** The state's Farmland Preservation Program has many steps to participation. There continues to be confusion about program benefits and there is a need for more outreach and education, especially with respect to program and tax credit eligibility and conservation compliance. Looking ahead to the coming tax season, DATCP has scheduled two webinars in coordination with DOR to connect with tax professionals and county conservation staff on farmland preservation programming and tax credits.

According to Wisconsin Land and Water, a nonprofit that supports the efforts of locally-led conservation, at the time of this report more than 26 counties have county conservationists who started their positions after 2018. This reflects that at least 37.5% of individuals charged with leading land and water resource management planning at the local level are "new" in some capacity. This does not account for turnover of other county land conservation department

employees. Not all counties with new or vacant county conservationists participate in the Farmland Preservation Program.

County conservationists and local conservation staff are often the first interaction a landowner or operator has with the Farmland Preservation Program. Anecdotally, a number of county land conservation departments have also reported preparing for the retirement of tenured staff members who have worked on the farmland preservation programming for decades. Looking to the next biennium, state program staff will be looking to provide additional training and outreach resources specific to support the needs of county staff. This will include exploring opportunities to produce resources that clarify conservation compliance requirements.

- **Mechanisms for Economic Development within AEAs:** Wis. Stat. § 91.84(1)(a) states that DATCP may designate AEAs by order for targeted agricultural preservation and development. Wis. Stat. § 91.86(3)5 & 6 clarifies that AEA petitions include a clear description of development goals for proposed AEAs, as well as a plan for achieving those goals that enumerates planned investments, grants, development incentives, cooperative agreements, and promotional and public outreach activities. The Farmland Preservation Program has clearly defined vehicles to help landowners in AEAs achieve agricultural preservation through farmland preservation agreements, implementation of conservation compliance, and the option to adopt farmland preservation zoning in areas within AEA boundaries that have general zoning. The Farmland Preservation Program does not offer a clearly defined funding mechanism to promote economic development within designated AEAs. Additional staff support would be needed to create, facilitate or implement economic development actions to foster these goals. Authorizing the use of unused planning grant dollars to be spent on locally crafted farmland preservation plan implementation grant projects (see Costs: Planning Grants section) could be one vehicle to achieve economic development within AEAs.
- **Delay of AEA Designation:** Under Wis. Stat. § 91.84(5) the designation of an AEA takes effect on January 1 of the calendar year following the year in which the order designating the area is published. This means that landowners who collaborate on a petition may have to wait more than a year between the start of petitioning for an AEA, being eligible to sign a farmland preservation agreement, and subsequently claiming the farmland preservation tax credit. For example, DATCP posts petition materials and instructions to request designation for a new or modified AEA in December or January of each calendar year. Locally-crafted materials must be submitted to the department for review by the AEA evaluation committee in August of each year. Subsequently, petitions recommended for designation do not go into effect until January 1 of the following calendar year. After designation, landowners are eligible to sign farmland preservation agreements within the AEA. Once a farmland preservation agreement goes into effect, the landowner is eligible to apply for tax credits on the covered lands during the following tax year. Landowners who participate in the program via certified farmland preservation zoning may be eligible to claim the tax credit in the year immediately following adoption of a certified farmland preservation zoning district if they can obtain a certification of compliance from their county land conservation department. The legislature could consider adjusting the effective date of designated AEAs to enable petitioners to apply for designation of an AEA and potentially a farmland preservation agreement within the same calendar year. This would compress the time between establishing eligibility and providing some tax relief to landowners who choose to sign farmland preservation agreements.

Looking to the Future

Wisconsin loses thousands of acres of farmland each year to nonagricultural development. While some amount of loss may be inevitable, DATCP's Farmland Preservation Program is intended to preserve farmland and soil and water resources for future generations. Over the next biennium, program staff will prioritize clarifying and supporting administrative responsibilities to the program by updating outreach materials and providing additional technical resources for program implementation. Doing so will serve to foster both new and existing relationships with local government staff and other local stakeholders. Program staff will also focus on actualizing the goals of awarded AEA innovation grants and continue to monitor development trends in agricultural areas.

Ultimately, the program requires substantial investment and commitment on all levels ranging from landowner actions to implementing conservation practices, county conservation offices offering technical assistance, and local governments partnering with the state to increase areas eligible for program participation. Planning for agriculture and implementing tools to protect farmland is a statewide priority. Stakeholders have identified points of improvement that would support current participation and grow future participation. In order to address these sentiments, the program will need continued and additional support, including legislative efforts such as passage of the proposed 2021 legislation.



Golden Triangle AEA, Eau Claire County

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