

Farmland Preservation Agreements: Eligible Land Uses

Wisconsin Working Lands Initiative

October 2010

Under the Wisconsin Farmland Preservation Program, landowners may enter into a Farmland Preservation Agreement with the state (*Subchapter IV, Chapter 91, Wis. Stats.*). By entering into an agreement, the landowner agrees to keep eligible land in agricultural use in exchange for the opportunity to claim a Farmland Preservation Tax Credit.

FACTS ABOUT AGREEMENTS

- Landowners must be located within a state-designated Agricultural Enterprise Area to enter into an agreement
- Agreements are for 15 years and are recorded
- The entire farm must meet state soil and water conservation practices, even if only a portion of the farm is covered by the agreement
- To be eligible for coverage under an agreement, the use of the land must fall into one of the following categories;
 1. agricultural use,
 2. accessory use,
 3. undeveloped natural resource and open space use, or
 4. minor pre-existing use which is compatible with agricultural use.

IDENTIFYING ELIGIBLE LAND

A landowner interested in entering into a farmland preservation agreement with the state is not required to cover all owned land under the agreement. In fact, in some instances, certain land uses may be ineligible for inclusion and ineligible for the tax credit. Below is some guidance to assist landowners in identifying land eligible for coverage under a farmland preservation agreement.

Agricultural Uses

Land that is in agricultural use is eligible for coverage under an agreement. The definition of agricultural use includes the following (*s. 91.01(2), Wis. Stats.*):

- Crop or forage production
- Keeping livestock
- Beekeeping
- Nursery, sod, or Christmas tree production
- Floriculture
- Aquaculture
- Fur farming
- Forest management
- Enrollment in a federal agricultural commodity payment program or federal or state agricultural land conservation payment program



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ARM-Pub-199

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Accessory Uses

Eligible land may also include uses that are considered “accessory” to the farming operation, such as a farm residence, (s. 91.01(1), Wis. Stats.). A business, activity or enterprise that is conducted by the owner or operator of the farm may also be an accessory use, whether or not it is associated with agricultural use. In this case, the accessory use must not require any buildings, structures or improvements other than a farm residence or those that are integral or incidental to the agricultural use. The accessory use also must not limit the agricultural use of the farm, and may not employ more than 4 full-time employees annually.

Other accessory uses may include those that can be considered an integral part of, or incidental to, an agricultural use and may include:

- A building, structure, or improvement, or
- A separate activity or business operation

When determining whether either of these uses are eligible for coverage under a farmland preservation agreement, the landowner must consider whether the use is an *integral part of*, OR *incidental to*, the agricultural use of the farmland. The following examples provide some guidance on qualifying and non-qualifying accessory uses.

Examples of qualifying accessory uses:

- A wind turbine used to generate energy primarily for the farm where it is located
- A storage warehouse or bottling plant primarily for the agricultural products produced on the covered land
- A waste processing facility that processes waste primarily for the farm where it is located

Examples of non-qualifying accessory uses:

- An energy generating facility, such as a wind turbine, that generates energy for the grid
- An operation, such as a dairy or food processing plant, for which a state license, permit or registration is required
- A waste processing facility, such as a manure digester, that processes waste from many neighboring farms

Undeveloped natural resource and open space uses

Land that remains as undeveloped natural resource areas or that is used for open space can be eligible for coverage under a farmland preservation agreement. Although not in agricultural use, these uses typically do not impair the agricultural use of adjacent land. Examples of undeveloped natural resource or open space uses may include wetlands and unmanaged forested land.

Pre-existing uses

Minor pre-existing uses may also be considered eligible for coverage under a farmland preservation agreement. These uses must be identified during the application process and the applicant must show that the use has no material adverse impact on the agricultural use of the land and is compatible with agricultural uses on adjacent lands as well as the land under agreement.

FOR MORE INFORMATION

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