

- A-1 **The State and Local Governmental Role in Agriculture**
- A-6 **Glossary of Terms and Abbreviations**
- A-7 **Additional References**

Chapter A

Agriculture

Nationally, Wisconsin ranks first or among the top states in the production of many agricultural commodities such as cheese, corn for silage, cranberries, snap beans for processing, hogs, potatoes, carrots, and green peas for processing. This chapter of the Briefing Book discusses some of the key state programs that provide support for agriculture, regulatory programs applicable to the agricultural industry, and other farm-related issues.

The State and Local Governmental Role in Agriculture

Government at all levels has a role in agriculture, both in support of the industry and its regulation. Federal, state, and county governments all commit public resources to agricultural programs. In addition, local units of government (cities, villages, towns, and counties) use zoning to affect decisions on where agricultural operations, both production and processing, are located or expanded, and to protect and retain current agricultural operations.

Federal agricultural programs are not discussed in this chapter. Instead, this chapter concentrates on some of the key state and local governmental programs that relate to agriculture.

Programs that support agriculture may provide information to farmers and the public on many of the difficult topics that confront farmers, assist farmers and other industry members in mediating disputes that arise in agricultural contexts, and provide support to farmers in the financial aspects of agriculture.

Information about agriculture. The University of Wisconsin (UW)-Extension has extensive resources available to farmers and others who work in the agricultural sector. (The UW-Extension website is: <http://www.uwex.edu/topics/Agriculture.cfm>.) Much of this information relates to methods for agricultural practices that maximize efficiency and profit. For example, the UW-Extension engages in research on feed for animals (forage research) and makes recommendations to

farmers regarding the best varieties of alfalfa to plant. Other kinds of information include information about pest management, pesticide use, sustainable agriculture, general business management, and farm safety.

**Wisconsin
Farm Center**
1-800-942-
2474

<http://www.datcp.state.wi.us/mktg/agriculture/farm-center/info-outreach/index.jsp>

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is also involved in providing information and outreach services to farmers, primarily through the Wisconsin Farm Center. The staff of the Farm Center provides: (1) a variety of information to farmers through a toll-free line at 1-800-942-2474; (2) technical assistance to farmers that includes information on the introduction of new technologies on farms; and (3) answers to general legal questions related to agriculture, including various legal aspects of the business of farming (taxation, estate planning, leases, and credit-debtor law). The Farm Center publishes a legal guide for Wisconsin farmers which includes information on lending systems, the court system, securities, property law, legal services, bankruptcy, tax law, and other topics. This legal guide is available online at:
<http://www.legalexplorer.com/resources/database/PubPDFs/57-farm.pdf>.

Marketing and promotion. DATCP provides assistance throughout the agricultural sector with product development, finding new markets, developing a product identity, and exporting products to other states and countries. Examples of DATCP assistance are:

- The DATCP Marketing Division has an International AgriBusiness Center (IABC) to help make connections between overseas buyers and Wisconsin agricultural suppliers. The IABC also looks for export opportunities for Wisconsin agricultural products, maintains information about Wisconsin producers, and engages in many other activities related to agricultural exports.
- DATCP is involved in value-added agriculture, which allows farmers to develop specialized products that are processed beyond the production of an agricultural commodity. This enables farmers to be able to capture more of the money spent by consumers on food or fiber. An example of a value-added product is ethanol that is produced using crop or plant wastes. This program also provides assistance relating to Wisconsin branded products, organic agriculture, and niche products such as specialty cheeses.

For more information about value-added agriculture, see:

<http://www.datcp.state.wi.us/mktg/business/marketing/val-add/index.jsp>.

- Some of Wisconsin's agricultural producers engage in collective action, with the assistance of DATCP, to market their products. This is done through the system of agricultural marketing orders. Marketing orders are typically requested by producers of a specific commodity in a petition to DATCP. The marketing order levies a "check-off," which is an assessment on all producers to generate revenue for the program. A marketing order is issued by the DATCP Secretary following a referendum in which the marketing order is approved by a majority of the producers, and thereafter is legally binding on all producers. Revenues from the check-off are used for research and development, public education, and marketing efforts. There are seven marketing boards, which range from the Wisconsin Cherry Board and the Wisconsin Ginseng Board, with annual check-off revenues of around \$30,000 to \$40,000, to the Milk Marketing Board, with annual revenues of \$21 million to \$23 million.

For more information about marketing orders, see:

<http://www.datcp.state.wi.us/mktg/agriculture/crops/market-orders/index.jsp>.

Conflict avoidance and resolution. DATCP has a farm mediation and arbitration program that assists in the resolution of a wide variety of farm-related disputes, such as creditor/debtor issues and government program disputes. Volunteer mediators and arbitrators are made available for this purpose. The primary purpose of mediation is to provide a less expensive way to resolve problems. For more information about DATCP's farm mediation and arbitration program, see: <http://www.datcp.state.wi.us/mktg/agriculture/farm-center/farm-mediation/bridges.jsp>.

There are also statutory protections for farmers against private nuisance and negligence claims. The "recreational immunity" statute provides protection for landowners against potential negligence claims made by people whom the landowner allowed to use his or her land for outdoor activities. The intent of this statute is to encourage private landowners to open their lands to use by others. This statute does not protect a landowner from having a lawsuit filed against him or her, and there are limits on how much compensation a landowner may receive in exchange for the use of his or her land without waiving this liability protection.

The "right-to-farm" statute sets limits on a farmer's exposure to nuisance lawsuits brought by nearby property owners. The statute provides that an agricultural practice is not a legal nuisance if the agricultural practice: (1) had been conducted on the farm prior to the plaintiff's commencement of use of the nearby property; and (2) does not constitute a "substantial threat to public health or safety." In other words, this statute provides some protection for farmers from nuisance lawsuits by individuals who move to an area after a farming activity is established.

DATCP also administers an agricultural producer security program intended to protect agricultural producers from financial default by those purchasing the producer's products. These programs, which affect dairy plant operators, vegetable processing plants, public warehouses, and grain dealers, provide a thorough review of the financial status of these purchasing entities and require them to provide financial assurances to protect the producers if payments are not made. The Legislature passed numerous revisions to the producer security program in the 2009-10 Legislative Session.

For more information about the producer security program, see: <http://www.datcp.state.wi.us/trade/business/security/index.jsp>.

Financial and other assistance. There are a number of loan programs and other forms of financial assistance or financial relief for farmers. These are a few examples:

- The 2009-10 Wisconsin Biennial Budget Act contained a set of initiatives collectively referred to as the "Working Lands Initiative" (WLI). The WLI contains a number of measures intended to protect farmland, including the following two programs:
 - *Farmland preservation tax credits.* Eligible, participating landowners may claim farmland preservation income tax credits. These credits vary from \$5 to \$10 per acre. This tax credit program replaced a prior farmland preservation income tax credit.

To be eligible for this tax credit, among a number of other requirements, the land must be in an area identified in a certified county farmland preservation plan. Also, the land must be either in an area certified for farmland preservation zoning, or must be located in a designated agricultural enterprise area and under a farmland preservation agreement.

Ag Land Rezoning- Conversion Fee

If the land is in an area certified for farmland preservation zoning and the local unit of government rezones all or part of the parcel for a reason other than a comprehensive rezoning, a per-acre conversion fee must be paid which is then deposited in a state farmland preservation trust fund. The amount of this conversion fee is based on the Wisconsin Department of Revenue's Use Value Guidelines for Agricultural Land Assessment (<http://www.revenue.wi.gov/report/a.html>). The fee is calculated by multiplying the Grade 1 agricultural land assessment value (or highest class of tillable land) by 3. It appears that this fee will range from approximately \$500 to \$1,000 per acre.

- *Purchase of agricultural conservation easements (PACE)*. PACE is a new program that provides up to 50% of the cost of purchasing agricultural conservation easements from willing landowners. Land for which an agricultural conservation easement has been sold cannot be developed for any purpose that would prevent its use for agriculture. The seller of the agricultural conservation easement retains ownership of the land and may continue to farm the land. Agricultural conservation easements can allow farmers to collect a significant portion of the market value of their land while continuing to farm the land. This is a new program, so it is not yet clear how the funds in this program will be allocated or prioritized.
- The Department of Commerce (DComm) has a grant program under the Dairy 2020 program to assist with the modernization and expansion of Wisconsin dairy farms. This program has provided more than \$2.5 million to over 925 Wisconsin dairy producers. For more information about DComm's Dairy 2020 grant program, see: <http://www.commerce.state.wi.us/bd/BD-AG-Dairy2020EPG.html>. DComm also has a loan program for rural economic development. For more information about this grant program, see: <http://www.commerce.state.wi.us/bd/BD-AG-Dairy2020EPG.html>.
- The Wisconsin Housing and Economic Development Authority (WHEDA) also administers programs related to agriculture, including the Credit Relief Outreach Program (CROP), which provides guarantees on agricultural production loans and the Farm Asset Reinvestment Management (FARM) program, which provides loan guarantees for starting, expanding, or modernizing operations.
- Under use-value assessment, agricultural land is assessed at its value for use as agricultural land, rather than its market value. Market value may reflect other considerations, such as the capacity to develop the property for nonfarm uses. This program has resulted in a major reduction of the amount of property taxes paid by Wisconsin farmers. The Legislative Audit Bureau (LAB) recently conducted an audit of use-value assessment, which can be reviewed at: http://www.legis.wisconsin.gov/LAB/reports/10-usevalueassessment_ltr.pdf.
- The current statutes provide that agricultural forest land is assessed for property taxes at 50% of its fair market value. "Agricultural forest land" is defined as land that either is producing or is capable of producing commercial forest products and that meets one of several conditions.
- The Farm Center coordinates a program to provide information about stray voltage to farmers. An on-farm investigation by a technical team can be arranged that includes assistance to farmers in working with utilities and electricians to resolve power quality issues. The Farm Center can also assist with dispute resolution between farmers and utilities about power quality issues.

Use-Value Assessment

- An income tax credit is available for investments in dairy and livestock farm modernization. This credit was extended and expanded in the 2009-10 Legislative Session.

Regulations Relating to Agriculture

Agriculture is subject to a wide variety of regulations intended to protect public health and safety. Many of these regulations are applied to agriculture in the same manner as to any other industry, such as pesticide regulations and food safety regulations. Some of the regulatory programs, such as soil and water conservation requirements, animal waste regulations, and fertilizer and nutrient requirements, are imposed through a long-term management strategy rather than a traditional regulatory program. Some program requirements are imposed only when public funds are available to assist farmers in complying with the regulations.

Food safety. DATCP and the Department of Health Services (DHS) share responsibility for the regulation of food safety, although DATCP has the primary responsibility for ensuring the safety of agricultural product production and processing. For more information on the food safety and processing program at DATCP, see: <http://www.datcp.state.wi.us/core/food/food.jsp>. The LAB recently conducted an audit of the food and dairy safety program, which can be reviewed at: <http://www.legis.wisconsin.gov/lab/reports/08-6Full.pdf>.

Movement of animals. DATCP administers a regulatory program that requires documentation of the movement of certain animals in Wisconsin, primarily to prevent the spread of disease. Imported livestock must be properly identified, and DATCP’s rules specify identification standards for each species. Animals entering Wisconsin require a certificate of veterinary inspection, and some may require a permit. Some livestock that is moved within this state also requires testing, and reporting requirements apply to certain animal diseases when discovered.

For more information about animal movement requirements, see the following DATCP website: <http://www.datcp.state.wi.us/ah/agriculture/animals/movement/index.jsp>.

Nonpoint Standards

Nonpoint source performance standards. Nonpoint source pollution, or runoff pollution, is water pollution that is diffuse in nature, having no single, well-defined point of origin. It is basically dirty water that does not come out of a pipe or point source. Wisconsin has laws regulating nonpoint source pollution from farming activities, primarily with respect to manure storage activities and runoff from farm fields and pastures.

Wisconsin statutes require the Department of Natural Resources (DNR) to establish nonpoint source performance standards (DNR promulgated a major revision of the nonpoint performance standards in 2010). DATCP is required to write rules identifying practices that farmers should use to meet those standards.

Specific performance standards include requirements related to nutrient management, erosion, tillage setbacks, phosphorus management, and manure storage and manure management. Cost sharing may be available to pay for the implementation of practices designed to meet these standards and, in some situations, it must be provided before a farmer can be compelled to comply.

For more information about the nonpoint source performance standards, see: <http://www.datcp.state.wi.us/arm/agriculture/land-water/conservation/> and <http://dnr.wi.gov/runoff/animal.htm>.

Pesticides. Pesticides are subject to comprehensive regulation by DATCP in a state-run program based on federal mandates. Pesticide regulation is primarily

directed at protecting public health, including agricultural workers and nearby residents, and protecting the environment, particularly groundwater. The regulations focus on application methods and rates and disposal of pesticide containers. Licensing and certification is required for most pesticide applicators, and even farmers who apply pesticides on their own land must have a private applicator certification. In certain cases, state law exceeds federal requirements. In one of the more prominent examples, Wisconsin has gone beyond federal regulations for atrazine, an herbicide that has been found in Wisconsin's groundwater.

Fences. The statutes on fencing require the owners of adjoining property to share in the cost of constructing and maintaining a boundary fence when one or both of the properties is used for farming or grazing. If one of the property owners refuses, the fence viewers (who are appointed by, and often are, the town board members in a rural area) may direct the work to be done, and the cost may be levied on the defaulting property owner as a special charge on the property tax bill.

Premises registration. Each location where livestock are kept (such as farms, feedlots, livestock dealers and haulers, and even backyard poultry flocks) must be registered with DATCP. The registration provides a database of information that can be used as part of the effort to track the source and spread of animal diseases. Information provided by the owner is confidential, unless release of the information is necessary to control the disease. Premises registration is not the same as individual animal identification.

Livestock facility siting. The livestock facility siting law includes statewide standards that certain new or expanded livestock facilities must meet to protect air and water quality. The siting law also places some restrictions on local government regulation of the siting or expansion of these facilities. The purpose of this law is to establish uniform standards statewide for livestock facility siting and expansion. The Livestock Facility Siting Review Board oversees challenges to local siting decisions.

Glossary of Terms and Abbreviations

DATCP – Department of Agriculture, Trade and Consumer Protection.

DNR – Department of Natural Resources.

Nonpoint source pollution – The runoff of rainwater or melting snow from the surface of the land that eventually enters lakes or streams. This runoff washes away and can contain pollutants from both urban and rural sources that can have an adverse effect on surface water quality. By contrast, a typical point source of pollution would be a wastewater treatment plant.

Nutrient management – A method whereby farmers adopt a plan for all sources of nutrients (nitrogen and phosphorous) that are applied to the land. This includes fertilizer, legumes, and manure spreading. Nutrient management reduces the costs of fertilizer application for farmers and reduces the amount of nutrients that can be washed away from the fields during rainfall and carried into surface waters.

Use-value taxation – Wisconsin property tax law requiring land that is in agricultural use to be assessed for property tax purposes according to its economic value for purposes of agricultural production. The state policy in use-value taxation is to reduce the property tax burden on farmers and thus help a farmer to maintain the land in agricultural use, rather than to sell the property to a person who plans to use it for some other purpose.

Value-added agriculture – The processing of an agricultural commodity beyond the basic production of the commodity. Farmers in particular benefit from value-added agriculture, which increases farm profitability.

Additional References

DATCP, <http://datcp.state.wi.us/>.

WHEDA (financial assistance), <http://www.wheda.com>.

DComm (financial assistance), <http://commerce.wi.gov>.

DNR (agricultural runoff management), <http://www.dnr.state.wi.us>.

Wisconsin Land and Water Conservation Association, <http://www.wlwca.org>.

U.S. Department of Agriculture—Natural Resources Conservation Service,
<http://www.nrcs.usda.gov/>.

UW-Extension, <http://www.uwex.edu/topics/Agriculture.cfm>.

Wisconsin Legislative Council

One East Main Street
Suite 401
Madison, WI 53703-3382

Phone: (608) 266-1304
Fax: (608) 266-3830

www.legis.state.wi.us/lc