

FACT SHEET

NEW YORK STATE'S

FARMLAND

PROTECTION

PROGRAM:

PURCHASE OF

DEVELOPMENT

RIGHTS

SEPTEMBER 2004

DESCRIPTION

New York State's Farmland Protection Program was enacted in 1992 as part of the Agricultural Protection Act. The program encourages counties and towns to work with farmers to promote local initiatives that help maintain the economic viability of agriculture and protect the industry's land base.

Under this program, funds are available to develop county agricultural and farmland protection plans and implement farmland protection projects. Since the enactment of the Agricultural Protection Act, more than 49 counties have received planning grants to develop agricultural and farmland protection plans. In 1996, the state amended Article 25-AAA to provide counties that have approved plans, or eligible municipalities, with implementation grants to purchase development rights (PDR) to farmland.

Purchase of development rights (PDR) is a voluntary farmland protection technique that pays farmland owners for permanently protecting the land for agriculture. In general, landowners possess a variety of rights to their property, including the rights to use water resources, harvest timber or build on the property consistent with local regulations. Each of these rights can be separated from the rest of the bundle of rights and sold or leased. When one right is restricted or removed from the land, all other rights and obligations of property ownership remain.

When farmland owners sell their development rights, they retain all other rights of ownership and can continue to farm their land as they did before. The land remains private and on the tax rolls; its taxable value should be based on the remaining rights.

The purchase of development rights to a piece of farmland places a deed restriction – known as a conservation easement – on the property, permanently protecting the land for agriculture. Conservation easements may be held only by a public body (Federal, State, County or Municipal government) or a not-for-profit conservation organization, often called a land trust. The holder is obligated to uphold and enforce the terms of the easement.

VALUATION

The value of a conservation easement equals the fair market value of the property minus its restricted value, as determined by a qualified appraiser. For example, if the full market value of a parcel of farmland is \$300,000 when developable but worth only \$100,000 if restricted to agricultural use, then the farmer is eligible to be paid the difference of \$200,000 for selling the development rights.

AGRICULTURAL CONSERVATION EASEMENTS

Because agriculture is evolving, it needs a flexible conservation easement that is tailored to its ever-changing conditions. Agricultural conservation easements have been developed to meet these needs. Generally, they have the following features:

- Limit future uses of the land that are inconsistent with or damage the agricultural value or productivity of the land
- Encourage the business of farming
- Permit the construction of new farm buildings and farm employee housing
- Complement the right to farm provisions in the Agricultural Districts Law
- Do not require public access
- Retain private ownership of the farm subject to the easement restrictions



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HISTORY

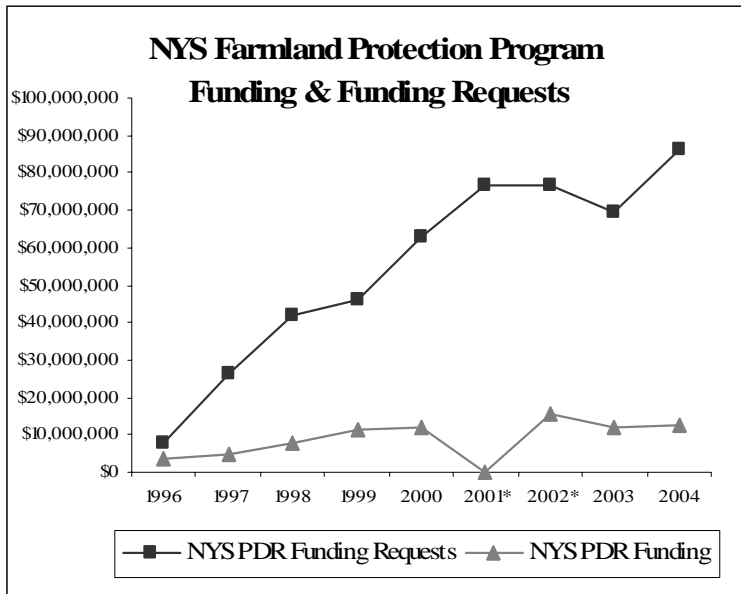
Suffolk County first pioneered PDR in the mid-1970s. Maryland, Massachusetts and Connecticut followed Suffolk County's lead by establishing programs within one to two years later. Since then 24 state and 44 local governments have established state or local PDR programs focused on protecting farmland.

New York's Farmland Protection Program was first funded in 1996. Funds for the Purchase of Development Rights program have been allocated from the state's Environmental Protection Fund (EPF) and the open space account of the Clean Water/ Clean Air Bond Act. However, as funds from the Clean Water,/Clean Air Bond Act have been committed, the state's EPF budget is currently the only funding source for the PDR program.

Under existing law, approximately \$125 million of state revenues are automatically deposited into the EPF each year. 90% of these revenues (\$112 million per year) are derived from a portion of the state's Real Estate Transfer Tax. Other revenue streams dedicated to the EPF include sources such as income from the sale of surplus state lands, the leasing of underwater state-owned lands, and New York's "open space" license plates. EPF funds are used for a variety of Purposes including farmland and open space protection, parks projects and solid waste management among others.

Since the inception of New York State's Farmland Protection Program, the state has awarded nearly \$68 million to counties and towns for protecting 28,000 acres of farmland on over 136 farms in 15 counties. In each grant round, requests have

For example, million com- Based on spread inter-program the state, requests are continue to



far exceeded the available funding. in 2004 requests totaling nearly \$86 peted for \$12.6 million in funding.

*There was no fund- ing for New York State's Farmland Protection Program in 2001, causing 2001 grant requests to be carried over to 2002. In 2002, \$8 million was allocated for the Farmland Protection Program's annual budget an additional \$8 million to offset the lack of 2001 funding.

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WHO CAN APPLY FOR PDR GRANTS

- A county Agricultural and Farmland Protection Board (AFPB) that has an approved county agricultural and

FEDERAL FARM AND RANCH LAND PROTECTION PROGRAM

The 1996 Farm Bill created a federal Farm and Ranch Land Protection Program (FRPP) to provide funding to purchase development rights on productive farmland. FRPP provides up to 50 percent of a project's development rights value. The 2002 farm bill increased FRPP funding greatly, with approximately \$100 million allocated per year from 2003 to 2007. A number of successful applicants to the NYS PDR program have used FRPP funds to meet the 25% local match Requirement.

For more information about FRPP, contact the USDA Natural Resources Conservation Service :

www.nrcs.usda.gov/programs/frpp/

farmland protection plan.

- A municipality that has adopted a local farmland protection plan (a comprehensive plan or other land-use ordinances that consider agricultural uses and needs; the project must be endorsed by the county AFPB).
- Local land trusts and other non-profit conservation organizations interested in protecting agricultural land are not eligible to apply directly for implementation funds, but can work cooperatively with county or municipal governments in support of a project for which funding is requested.

FUNDING ARRANGEMENT

Typically, the value of a conservation easement equals the property's fair market value minus its restricted value (the value once it can no longer be developed). New York's Farmland Protection Program pays farmers up to 75 percent of the cost to complete the purchase of development rights transaction. The remaining 25 percent must come from other sources—possibly a private source, a municipality, the federal Farm and Ranch Lands Protection Program, a development rights donation by a neighboring landowner or from a "bargain sale" by the farmer (who may use the donation value as a tax deduction).

PDR APPLICATION PROCESS

The NYS Department of Agriculture & Markets annually issues a request for proposals (RFP) to seek applications from eligible municipalities or county AFPBs. Local governments considering responding to the RFP often solicit interest from farm landowners within their jurisdiction prior to the release of the RFP. Informational meetings may be held to discuss the program, answer questions and request letters of interest or pre-applications. If letters or pre-applications are requested, the local review body (AFPB or town government) reviews submitted materials and makes decisions about which projects to submit to the Department of Agriculture and Markets. Mapping, grant-writing or other assistance is often provided to assist selected landowners in developing competitive applications.

Department of Agriculture & Markets staff perform on-site reviews of each of the eligible parcels submitted. Farms are then scored and ranked using state criteria. Priority is given to projects that preserve viable agricultural land, are in areas facing significant development pressure and serve as buffers for a significant natural public resource. In addition, projects are

evaluated by:

STEPS IN PARTICIPATING IN THE NYS FARMLAND PROTECTION PROGRAM

1. Farmer informs AFPB and/or municipality of interest
2. Municipality /AFPB submits an application to New York State Department of Agriculture & Markets (NYSDAM)
3. NYSDAM scores, ranks, and selects farms
4. NYSDAM sends contracts to AFPB/ municipalities
5. Land planning and conservation easement discussions completed with landowner
6. Appraisal and title work completed
7. Documents are finalized and sent to NYSDAM for review
8. NYSDAM approves documents and requests that the comptroller issue payment to the municipality
9. Municipality pays landowner and landowner signs easement at closing

Timeframe – The process of selling an easement usually takes between 14 to 24 months.

For more information about New York's Farmland Protection Program, or to request a copy of the most recent RFP, contact:

NYS Agriculture & Markets, Agricultural Protection Unit

10 B Airline Drive
Albany, New York 12235
Tel: (518) 457-2713
www.agmkt.state.ny.us/

For more information about farmland protection in New York, contact:

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For more information about farmland protection nationwide, go to the:

Farmland Information Center
www.farmlandinfo.org

For more information about a land trust in your area, contact:

The Land Trust Alliance
110 Spring Street
Saratoga Springs, NY 12866
Tel: (518) 587-0774
northeast@lta.org
www.lta.org

- Number of acres preserved
- Soil quality
- Percentage of total farm acreage available for agricultural production
- Proximity to other conserved farms
- Level of farm management demonstrated by current landowner
- Likelihood of the property's succession as a farm if ownership changes

Once a project is selected, the Department of Agriculture & Markets signs a contract with the successful government applicant. Then the local government and project partners work with the landowner to secure local matching funds and complete other project tasks.

EXAMPLES OF SUCCESSFUL FARMLAND PROTECTION PROGRAM APPLICATIONS

- *Town of Macedon* – Excellent working partnerships and community support have led to several successful applications submitted by the town of Macedon in Wayne County. A multi-faceted partnership between the town, Genesee Land Trust and county has resulted in grant awards from both state and federal programs that total nearly \$1.5 million to protect over 2,000 acres of farmland. A survey of residents, which demonstrated community support for farms and rural character, was instrumental in the success of Macedon's farmland protection efforts.
- *Long Island* – Suffolk County and several towns on eastern Long Island have recognized that farmland protection efforts on the island require a level of conservation, tax, and land planning expertise that few local governments possess. Instead, these municipalities have hired the Peconic Land Trust to help manage aspects of their farmland protection programs – from project selection and design to negotiation to stewardship obligations after the deal is done.
- *Orange County* – When Warwick farmer Tunis Sweetman inquired about the state's new farmland protection program, he was advised that a local match was required and that such local funds were not available. Undaunted, Sweetman asked whether he could provide the "local" match by offering a bargain sale of his development rights. He would agree to accept the state match (75%) as full payment, in effect making a donation of the remaining value. After review, the Department of Agriculture & Markets decided to accept the bargain sale as fulfilling the local match requirement. As a result, at least four farms in Orange County were awarded funding in the first round using the bargain sale as the local match.



American Farmland Trust works to stop the loss of productive farmland and to promote farming practices that lead to a healthy environment.