



(Rev 1/2014)

# Department of Agriculture, Trade and Consumer Protection

## Permanent Agricultural Conservation Easements (PACE)

### Cooperating Entity Information

This handout provides general information for cooperating entities regarding Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) expectations if they are approved for PACE funding.

Refer to the PACE website at:

[http://datcp.wi.gov/Environment/Working\\_Lands\\_Initiative/PACE/index.aspx](http://datcp.wi.gov/Environment/Working_Lands_Initiative/PACE/index.aspx) for more information.

Contact the Wisconsin PACE program manager to discuss specific questions:

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Sec. 93.73, Wis. Stats., provides requirements for PACE program management, eligibility, approval and other requirements and may also be a useful reference for program participants.

Sec. 93.73, Wis. Stats., is not the complete or only description of DATCP PACE policies.

Chapter 93 of the Wisconsin Statutes can be found at:

<http://www.legis.state.wi.us/statutes/Stat0093.pdf>

### General Information:

- Cooperating entities are defined as a political subdivision or non-profit conservation organization
- Cooperating entities will recognize DATCP as a partner in easement acquisition and co-holder of the conservation easement agreement. DATCP will sign the easement agreement as a co-holder, conduct landowner interviews, and review appraisal, easement title, and other documents as necessary to ensure requirements of the PACE program are met. ***The review process and follow up work may take at least several months.***
- After preliminary selections are made, DATCP will release general information about selected projects including: entity funded, acres, number of easements, and general location.
- DATCP will provide up to 50 percent of the fair market value of the agricultural conservation easement (s. 93.73 (2) (1), Wis. Stats.) as determined by a professional appraisal. Agricultural conservation easements with a fair market value exceeding \$350,000 will require a second professional appraisal commissioned by DATCP. (s. 93.73 (6d), Wis. Stats.)
- If total reimbursement by the department will exceed \$750,000 for the DATCP's easement share and transaction costs, review by the Joint Finance Committee is required before an entity can enter into a cooperative contract with DATCP. (s. 93.73(6h). Wis. Stats.)
- Entity match for easements can come from cash on hand, approved grants or loans, federal funding, or landowner donation.

- Successful applicants to the PACE program must sign a PACE Grant Contract with DATCP, which describes responsibilities and actions to be completed before reimbursement for the easement purchase and transactions costs can be made. (s. 93.73 (6m), Wis. Stats.)
- **Reimbursement to a cooperating entity for easement cost and transaction costs may only be made after the easement has been recorded at the county register of deeds and submission of documentation that any title defects have been eliminated. (s. 93.73 (9), Wis. Stats.)**
- Easement transactions should be closed, and the easement deed recorded within 6 months from the date of the PACE Grant Contract signature. The exception is if all parties agree to extend the PACE Grant Contract prior to the 6 month expiration.
- DATCP or a county Land Conservation Department can provide technical assistance to meet conservation compliance requirements for soil and water conservation standards.
- DATCP or a county Land Conservation Department must certify compliance or a schedule of compliance for state soil and water conservation standards before DATCP will accept the conservation easement.

## Entity Responsibilities

- Coordinate with DATCP to schedule an on-site visit or interview with landowner(s)
- **Pay for all easement transaction costs, including surveys, appraisals, title search, closing costs, attorney fees, etc. Reimbursement will not be made for costs incurred by the landowner. (s. 93.73 (6m), Wis. Stats.)**
- Complete easement negotiations with landowners.
- Provide a copy of the negotiated draft easement to DATCP in MS-Word format, for DATCP comment and/or approval.
- Provide a record of a complete search of title records that verifies ownership of the land and identifies any liens, mortgages, easements, or reservation of minerals rights. Legal sufficiency of title must be approved by DATCP and all exceptions must be removed, subordinated, or approved. See PACE Title Search Policies for more information.
- Complete on-site inspections for hazardous materials, obtain lessee certification if required, and perform final inspection after closing.
- Obtain a professional appraisal by a state Certified General Appraiser, meeting the DATCP PACE Easement Appraisal Guidelines and provide a complete copy of the appraisal to DATCP. DATCP will complete an administrative review and technical review of most appraisals. (s.93.73 (6) (b), Wis. Stats) ***DATCP will not accept an appraisal commissioned by a landowner. Appraisals must be commissioned by the cooperating entity.*** A second appraisal may be commissioned by DATCP for easements with a fair market value exceeding \$350,000. The appraisal shall include an expiration date and the easement closing must occur prior to the expiration of the appraisal, or an update appraisal will be required.
- Provide complete baseline documentation to DATCP. Baseline documentation should meet standards set by the Land Trust Alliance. DATCP will determine if baseline documentation is complete.

- Ensure that all responsibilities listed in the Cooperative Contract are completed (s.93.73 (6m), Wis. Stats.)
- **Arrange for payment of easement purchase cost to landowner (s. 93.73 (6m), Wis. Stats.)**
- Provide for all legal and administrative actions to ensure proper acquisition and recording of the easement. (s. 93.73 (8), Wis. Stats.)
- Provide DATCP with the recorded easement (s. 93.73 (8), Wis. Stats.) and updated title search to document removal of title defects.
- Monitor easements and provide status reports to DATCP annually using PACE program protocol and monitoring forms.
- Provide resources necessary to manage and enforce easements (s. 93.73 (11), Wis. Stats.)
- Other requirements as determined through department administrative rule or policy (s. 93.73 (14), Wis. Stats)

## Easement Requirements

The cooperating entity drafts the easement based on the DATCP Draft Agricultural Conservation Easement Agreement. DATCP will review and provide comment until approved.

- Construction of impervious surface is allowed in the Farmstead Area if all applicable zoning requirements and other local laws are met. The location of the Farmstead Area should be specified in the easement.
- Construction of impervious surface in the Agricultural Area is allowed only if related to agricultural use and only by approval of the easement holders.
- Easements must be permanent (s. 93.73 (7) (b), Wis. Stats.)
- Generally, the easement will prohibit conversion of lands from agricultural use (s. 93.73 (7) (a), Wis. Stats.)
- The easement will provide for the administration, management, and enforcement of the easement by the cooperating entity and DATCP (s. 93.73 (7) (c), Wis. Stats.)
- The easement will require compliance with applicable state laws relating to soil erosion, nutrient management, and soil and water conservation standards.
- All signatures in the recorded easement must be notarized.
- Subdivision of the property is prohibited unless approved by the easement holders and is related to agricultural use.

DATCP will make available on its website specific guidelines regarding easement development, acquisition, and reimbursement policies applicable to cooperating entities.