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# **New England Food Policy:** *Building a Sustainable Food System*

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**March 2014**

**American Farmland Trust  
Conservation Law Foundation  
Northeast Sustainable Agriculture Working Group**

## **Appendix**

This Appendix includes additional information that was collected during research undertaken for *New England Food Policy: Building a Sustainable Food System*. The intention is for this to serve as an accompaniment to the main text; the information herein is not a complete inventory of federal and state policies relevant to New England food and agriculture. In some cases, the information in the Appendix is referenced in the report, but in many cases it is not. The Appendix does not include information for all sections of the report.

### **LAND: REDUCING CONVERSION, INCREASING PERMANENT PROTECTION AND EXPANDING ACCESS**

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## APPENDIX A: CURRENT USE PROPERTY TAX VALUATION

### Relevant Statutory and Regulatory Sources

<b>Connecticut</b>	Conn. Gen. Stat. §§ 12-107 & 12-504(a)
<b>Maine</b>	7 M.R.S. §§ 152 & 1112
<b>Massachusetts</b>	M.G.L.c. 61A §§ 1-15
<b>New Hampshire</b>	N.H. Rev. Stat. Ann. §§ 79-A:1-14 & 79-A:25-a
<b>Rhode Island</b>	R.I.G.L. § 44-5-39 R.I. Code R. 25-3-21:5
<b>Vermont</b>	10 V.S.A. §§ 3751-63

ADDITIONAL INFORMATION

COMPARISON OF CURRENT USE POLICIES BY STATE				
	Connecticut	Maine	Massachusetts	
ELIGIBILITY	Size	<ul style="list-style-type: none"> <li>• No minimum is necessary, but the applicant must show bona fide agribusiness or farming activity.</li> </ul>	<ul style="list-style-type: none"> <li>• Five contiguous acres are necessary.</li> </ul>	<ul style="list-style-type: none"> <li>• Five contiguous acres are necessary.</li> </ul>
	Income	<ul style="list-style-type: none"> <li>• No minimum is necessary, but the applicant must show bona fide agribusiness or farming activity.</li> </ul>	<ul style="list-style-type: none"> <li>• The parcel must gross \$2,000 annually.</li> </ul>	<ul style="list-style-type: none"> <li>• The purpose must be to gross \$500 annually, with an additional \$5 gross per extra acre of enrolled land.</li> </ul>
	Continuity of Use	<ul style="list-style-type: none"> <li>• No minimum is necessary, but the applicant must show bona fide agribusiness or farming activity.</li> <li>• Enrollment of fallow land is allowed if the reason for disuse is "soil nutrient replenishment, crop rotation, soil conservation purposes, labor and/or capital investment requirements, market conditions or various other reasons that might result in a less productive use of the land."</li> </ul>	<ul style="list-style-type: none"> <li>• The parcel must have met the size and income requirements for one of two, or three of five years preceding the application.</li> </ul>	<ul style="list-style-type: none"> <li>• The parcel must have met the size and income requirements for at least two years preceding the application.</li> </ul>
APPLICATION		<ul style="list-style-type: none"> <li>• i. Guidelines for Agricultural Valuation, put out by the Department of Agriculture and Revenue Services, suggest a per-acre valuation based on agricultural activity.</li> <li>• ii. Adjustment factors allow the assessor to deviate from the prescribed value, if he or she can substantiate the deviation.</li> <li>• iii. Conservation measures qualify as an adjustment factor.</li> </ul>		
RETENTION	<ul style="list-style-type: none"> <li>• Recapture tax penalties decrease every year the land has been in current use assessment.</li> </ul>		<ul style="list-style-type: none"> <li>• A recapture tax is levied on the original landowner.</li> <li>• A conveyance tax is levied on the purchasing developer.</li> <li>• Right of first refusal gives the municipality the option of purchasing land that has been a part of the state's current use valuation program.</li> </ul>	

New Hampshire	Rhode Island	Vermont
<ul style="list-style-type: none"> <li>To be eligible, the applicant needs 10 acres, which may be aggregated with land used for forestry and “wild-land,” if the parcel meets the income requirements.</li> </ul>	<ul style="list-style-type: none"> <li>Five acres are necessary if the land is owned by a farmer.</li> <li>No minimum is required if the primary purpose is horticulture and/or agriculture.</li> <li>No minimum is necessary for subsistence farming.</li> <li>No minimum is required if the combination of acreage, crop reduction and income qualifies the land as a farm.</li> </ul>	<ul style="list-style-type: none"> <li>A minimum of 25 acres are necessary.</li> <li>No minimum is required if the land is owned by a farmer and is part of an overall farm unit OR is used by a farmer as part of his or her farming operations.</li> <li>No minimum is necessary if the parcel of up to 25 acres produces a gross income of at least \$2,000.</li> </ul>
<ul style="list-style-type: none"> <li>The parcel must gross \$2,500 annually.</li> </ul>	<ul style="list-style-type: none"> <li>Land qualifying under the five-acres-by-farmer parcel size minimum must produce \$2,500 annually.</li> <li>There is no minimum for land that has a primarily agricultural and/or horticultural use OR is a subsistence farm.</li> </ul>	<ul style="list-style-type: none"> <li>No minimum is required if the land parcel of up to 25 acres produces a gross income of \$2,000.</li> <li>Larger parcels must gross \$75 per acre above the 25 acre minimum, with the total income not to exceed \$5,000.</li> <li>Exceptions may be made in cases of orchard lands planted with fruit producing trees, bushes or vines that are not yet of bearing age.</li> </ul>
<ul style="list-style-type: none"> <li>The parcel must have met the size and income requirements the year prior to the application, and on a continuing basis.</li> </ul>	<ul style="list-style-type: none"> <li>The parcel must have met the size and income requirements in one of two years preceding the application.</li> </ul>	<ul style="list-style-type: none"> <li>The parcel must have met the size and income requirements in one of two, or three of five calendar years preceding the application.</li> <li>If the land is leased, the lease must have been underwritten for three years.</li> </ul>
<ul style="list-style-type: none"> <li>The state gives municipalities the option to direct Land Use Change Tax penalties into a conservation fund administered by the municipality.</li> <li>Funds can be used to purchase land or conservation easements; create town maps; evaluate wetlands, perform inventories of natural resources; invite guest speakers; and train and educate citizens.</li> </ul>		<ul style="list-style-type: none"> <li>A flat tax penalty of 20 percent of fair market value is charged up to 10 years after the land is enrolled.</li> <li>After 10 years, the penalty is reduced to 10 percent.</li> </ul>

## APPENDIX B: STATE AND FEDERAL ESTATE TAXES

### Federal Estate Tax

- The federal estate tax law is at 26 C.F.R. part 20.
- The 2013 federal estate tax applies to the amount of an estate that exceeds \$5.25 million, and the tax rate is capped at 35 percent.<sup>1</sup>
- Normally, estate taxes must be paid within nine months of death. If at least 35 percent of the value of an estate is a farm, taxes may be paid over an additional 14 years, with interest due after the fifth year.<sup>2</sup>

### State Estate Taxes

#### *Connecticut*

- The Connecticut estate tax law is at Conn. Gen. Stat. 12-391.
- The exemption was reduced from \$3.5 million in 2011: Public Act 11-6.
- The estate tax rate begins at 7.2 percent of the excess over \$2 million and increases. The highest bracket is for an estate worth at least \$10 million; the rate is \$748,200 plus 12 percent of the excess over \$10.1 million.

#### *Maine*

- The Maine estate tax law is at 36 M.R.S. part 6.
- The estate tax rate begins at 8 percent of the excess over \$2 million and increases. The highest bracket is for an estate worth more than \$8 million; the rate is \$540,000 plus 12 percent of the excess over \$8 million.

#### *Massachusetts*

- The Massachusetts estate tax law is at M.G.L.c. 65C.<sup>3</sup>
- Based on the Internal Revenue Code in effect on Dec. 31, 2000, if an estate consists solely of property subject to Massachusetts estate taxation, it pays to Massachusetts an amount equal to the federal credit. For an estate worth more than \$1 million, the rate starts at 6.4 percent and increases to 16 percent for an estate worth \$10 million or more.

#### *Rhode Island*

- The Rhode Island estate tax law is at R.I.G.L. §§ 44-22-1 to -2.
- The tax is a sum equal to the maximum credit for state death taxes allowed by 26 U.S.C. § 2011. For an estate worth more than \$1 million, the rate starts at 6.4 percent and increases to 16 percent for an estate worth \$10 million or more. This amount will be adjusted annually by the percentage of increase in the U.S. Department of Labor's Consumer Price Index for all Urban Consumers.

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<sup>1</sup> See *generally Estate Tax*, Internal Revenue Serv., <http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Estate-Tax> (last visited Dec. 24, 2013).

<sup>2</sup> *How Will the Phaseout of Federal Estate Taxes Affect Farmers?*, USDA Econ. Research Serv. 2 (Feb. 2002), [http://www.ers.usda.gov/ersDownloadHandler.ashx?file=/media/479563/aib751-02\\_1\\_.pdf](http://www.ers.usda.gov/ersDownloadHandler.ashx?file=/media/479563/aib751-02_1_.pdf); see 26 U.S.C. § 6166 (2013).

<sup>3</sup> Adjusted taxable gifts are any lifetime gifts in excess of the annual exclusion amounts. *A Guide to Estate Taxes*, Mass. Dep't of Revenue, <http://www.mass.gov/dor/individuals/taxpayer-help-and-resources/tax-guides/estate-tax-information/estate-tax-guide.html> (last visited Dec. 24, 2013).

***Vermont***

- The Vermont estate tax law is at 32 V.S.A. §§ 7401-97.
- The tax is a sum equal to the maximum credit for state death taxes allowed by 26 U.S.C. § 2011. For an estate worth more than \$1 million, the rate starts at 6.4 percent and increases to 16 percent for an estate worth \$10 million or more.
- The provision related to reduction is 32 V.S.A. § 7443.

## APPENDIX C: PLANNING AND LAND USE

### State Goals and Planning

#### *Connecticut*

- The State Land Use Plan is found in Conn. Gen. Stat. § 16a-24 to -35b.
  - » The plan sets out six growth management principles, ways to achieve each, and ways to measure progress and compliance.
  - » The plan uses geographic information systems (GIS) mapping to designate growth centers and conservations areas (see Mapping section, below).

#### *Maine*

- The Growth Management Act is found in 30-A M.R.S. §§ 4302-4457.
- The Maine Land Use Planning Commission directly regulates most development in unorganized territories.<sup>4</sup>
- The Site Location of Development Act is found in 38 M.R.S. §§ 481-90.
  - » The act establishes a statewide permitting program that regulates development projects larger than 20 acres, and some mining and energy development.
  - » Criteria for the program include impacts on infrastructure, groundwater, stormwater and other environmental factors.

#### *Massachusetts*

- Sustainable Development Principles have been established for the state as a whole.<sup>5</sup>
- Executive Order 385, Planning for Growth, directs state agencies to promote smart growth principles.

#### *New Hampshire*

- The state's Smart Growth Legislation is found in N.H. Rev. Stat. Ann. § 9-B:1 to B:6.
  - » The legislation enumerates smart growth principles and goals.
  - » The legislation also declares that state agencies must encourage smart growth.
- New Hampshire's State Land Use Enabling Act is found in N.H. Rev. Stat. Ann. ch. 674.
  - » The act explains that part of the purpose of master plans is to guide the local planning board in implementing smart growth principles (N.H. Rev. Stat. Ann. § 674:2).

#### *Rhode Island*

- The Rhode Island Comprehensive Planning and Land Use Act is found in R.I.G.L. § 45-22.2.
  - » The State Guide Plan (§ 42-11-10):
    - ~ Sets long-term planning goals and policies; and
    - ~ Includes *Land Use 2025: Rhode Island State Land Use Policies and Plan* (April 13, 2006).

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<sup>4</sup> See, e.g., 12 M.R.S. § 685-A(4-A).

<sup>5</sup> *Sustainable Development Principles*, Mass.gov, [http://www.mass.gov/envir/smart\\_growth\\_toolkit/pdf/patrick-principles.pdf](http://www.mass.gov/envir/smart_growth_toolkit/pdf/patrick-principles.pdf) (last visited Dec. 24, 2013).

### ***Vermont***

- Act 250 establishes a statewide permitting program, which regulates many subdivisions and new commercial land uses.<sup>6</sup>
- Act 183 sets forth smart growth guiding principles for municipalities.
- The goals section of Act 200, 24 V.S.A. § 4302(c)(1), make intensive residential development a goal of regional and municipal planning.

### **State Technical Assistance for Smart Growth Regional Plans**

#### ***Connecticut***

- Conn. Gen. Stat. § 32-7 allows municipal and regional economic development agencies to apply for technical and/or financial assistance to conduct land use studies.
- Conn. Gen. Stat. §§ 16a-35c to -35h prioritizes funding for development projects planned in designated growth centers.

#### ***Maine***

- A subsection of the Growth Management Act, 30-A M.S.R. §§ 4345–49A, provides for state financial and technical assistance:
  - » The provision allows municipalities or regions to apply for grant money and/or technical assistance to develop and implement land use plans.

#### ***Massachusetts***

- The Executive Office of Housing and Economic Development Growth Districts Initiative collaborates with municipalities to streamline permitting, re-use existing land, designate growth districts and promote efficient transportation systems.<sup>7</sup>
- The Smart Growth/Smart Energy Toolkit:<sup>8</sup>
  - » Provides model zoning laws;
  - » Explains state smart growth goals; and
  - » Guides municipalities in implementing smart growth principles.

#### ***New Hampshire***

- Pursuant to N.H. Rev. Stat. Ann. ch. 9-B, state agencies fund downtown revitalization projects and infrastructure in municipalities, in keeping with smart growth principles.<sup>9</sup>

#### ***Rhode Island***

- R.I.G.L. § 45-22.2-11 allows municipalities to apply for state technical assistance and/or grant money to develop comprehensive land use plans.

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<sup>6</sup> See Act 250, Vt. Natural Res. Bd. (May 25, 2011), <http://www.nrb.state.vt.us/lup/publications/nrb1.pdf>.

<sup>7</sup> *Growth Districts Initiative Description*, Mass.gov, <http://www.mass.gov/hed/economic/eohed/pro/gdi/growth-districts.html> (last visited Dec. 24, 2013).

<sup>8</sup> *Smart Growth/Smart Energy Toolkit*, Mass.gov [hereinafter *Smart Growth/Smart Energy Toolkit*], [http://www.mass.gov/envir/smart\\_growth\\_toolkit/pages/how-to-SG.html](http://www.mass.gov/envir/smart_growth_toolkit/pages/how-to-SG.html) (last visited Dec. 24, 2013).

<sup>9</sup> See *Report on Growth Management*, N.H. Council on Res. and Dev. 6–7 (Nov. 2010), <http://www.nh.gov/oep/planning/programs/cord/documents/smart-growth.pdf>.

### ***Vermont***

- 24 V.S.A. ch. 76A allows for historic downtown development.<sup>10</sup> The legislation allows municipalities to:
  - » Apply for growth center designation; and
  - » Receive state technical and financial assistance toward economic development and infrastructure in that growth center.

### **Regional Planning Commissions**

#### ***Connecticut***

- Connecticut has 14 planning regions.
- Municipalities have voluntarily created regional planning organizations, which are governed by Conn. Gen. Stat. §§ 8-31 to 8-37b.

#### ***Maine***

- Maine has 12 planning regions.
- A subsection of the Growth Management Act, 30-A M.S.R. §§ 2301-42, establishes regional planning commissions, which:
  - » Are advisory, not binding; and
  - » Create regional plans.

#### ***Massachusetts***

- Massachusetts has 14 regional planning agencies.
- M.G.L.c. 40B establishes regional planning commissions, which:
  - » Are advisory, not binding; and
  - » Create regional plans.

#### ***New Hampshire***

- New Hampshire has nine regional planning commissions.
- N.H. Rev. Stat. Ann. §§ 36:45-36:48 establishes regional planning commissions.
  - » Rulings from the commissions are advisory, not binding.
  - » Membership is voluntary, but the number of representatives a participating town has is proportional to the town's population.
  - » The commissions develop regional plans.

#### ***Rhode Island***

- The state has no formal regional planning commissions.
- R.I.G.L. § 45-22.1 allows towns to create joint municipal planning commissions.

### ***Vermont***

- The state has 12 regional planning districts, headed by regional planning commissions.
- 24 V.S.A. ch. 117 (Act 200) governs regional planning.

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<sup>10</sup> See *Designation Program Reform, Part II*, Working Group on Industrial Parks 1-5 (Sept. 13, 2013), [http://accd.vermont.gov/strong\\_communities/opportunities/revitalization/growth\\_center](http://accd.vermont.gov/strong_communities/opportunities/revitalization/growth_center) (describing the program).

- » Each town is a member of its respective regional planning commission by statute (24 V.S.A. § 4342).
- » Despite membership, a municipality is not required to pay dues to its regional planning commission, nor adhere to any regional plan the commission creates (24 V.S.A. §§ 4349, 4362).
- » Regional planning commissions offer technical and legal planning assistance to towns (24 V.S.A. § 4345a).
- » These planning commissions also review local plans for regional consistency every five years.
- » Regional planning commissions are partially funded by the state (24 V.S.A. § 4362).

## **Optimizing Zoning Statutes**

### ***Connecticut***

- The applicable statutes include:
  - » For zoning, Conn. Gen. Stat. §§ 8-1 to 8-13a;
  - » For local land use ordinances, Conn. Gen. Stat. § 8-17a; and
  - » For municipal planning commissions, Conn. Gen. Stat. §§ 8-18 to 8-30f, with specific language about subdivision regulations, Conn. Gen. Stat. § 8-23.

### ***Maine***

- The applicable statutes include:
  - » For planning and zoning, 30-A M.S.R. §§ 4501-54.
  - » The Site Location of Development Act creates a statewide permitting program that regulates development projects larger than 20 acres, and some mining and energy development. Criteria for that program include impacts on infrastructure, groundwater, stormwater and other environmental factors, 38 M.S.R. §§ 481-90.
- In 2012, Maine eliminated confusing provisions and revised its legislation governing land use in unorganized territories.<sup>11</sup>

### ***Massachusetts***

- The applicable statutes include:
  - » For zoning, M.G.L.c. 40A; and
  - » For smart growth zoning districts, M.G.L.c. 40R & 40S.<sup>12</sup>
    - ~ These provisions create overlay zoning districts that permit high-density residential development as of right.
    - ~ Municipalities must apply to the Department of Housing and Community Development to place these zones.
    - ~ The legislation includes financial incentives to adopt these zones.
- Proposed bill H. 1859 is an act promoting the planning and development of sustainable communities. It would:
  - » Simplify the process for a town to amend its zoning ordinance;
  - » Clarify contradictory state law provisions; and
  - » Remove permitting obstacles for high-density zoning, multifamily housing, transferrable development rights, and other smart growth techniques.

<sup>11</sup> See generally *An Act To Reform Land Use Planning in the Unorganized Territory*, H.P. 1325, L.D. 1798 (codified as amended in scattered sections of 5 M.R.S., 12 M.R.S., 35-A M.R.S., 38 M.R.S. (2012)), available at <http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1325&item=8&snum=125>.

<sup>12</sup> See *Smart Growth/Smart Energy Toolkit*, *supra* note 8.

### ***New Hampshire***

- The applicable statutes include:
  - » The New Hampshire State Land Use Enabling Act, N.H. Rev. Stat. Ann. ch. 674. Under this legislation:
    - ~ Municipalities must create a master plan before enacting zoning;
    - ~ The master plan must adhere to smart growth principles (N.H. Rev. Stat. Ann. § 674:2); and
    - ~ Towns are empowered to use innovative land use controls, such as transferrable development rights and planned unit developments, which facilitate smart growth.

### ***Rhode Island***

- The applicable statutes include:
  - » For zoning ordinances, R.I.G.L. § 45-24, which must be consistent with the local comprehensive plan; and
  - » For subdivision regulation, R.I.G.L. § 45-23.
- Rhode Island encouraged integrating agriculture into mixed use and dense urban development by amending its state zoning legislation to make agriculture a permitted use in residential, industrial and commercial districts.<sup>13</sup>

### ***Vermont***

- The applicable statutes include:
  - » For zoning, 24 V.S.A. §§ 4411, 4414;
  - » For limits and required municipal provisions, 24 V.S.A. §§ 4412-4413;
  - » For Site Plan Review, 24 V.S.A. § 4416;
  - » For a planned unit development, 24 V.S.A. § 4417;
  - » For subdivision bylaws, 24 V.S.A. § 4418; and
  - » For transfer of development rights, 24 V.S.A. § 4423.

## **Mapping**

### ***Connecticut***

- The Interactive Locational Guide Map on the state's website:<sup>14</sup>
  - » Designates growth corridors and color-label areas for different types of development or no development at all; and
  - » Is integrated with state land use plan
- The University of Connecticut's Center for Land Use Education and Research "provides information, education and assistance to Connecticut's land use decision makers, community organizations and citizens on how to better protect natural resources while accommodating economic growth."<sup>15</sup>

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<sup>13</sup> See R.I. Pub. Laws 2011, ch. 401, § 1(amending R.I.G.L. § 45-24-37); R.I. Pub. Laws 2012, ch. 342, § 1 (amending R.I.G.L. § 45-24-37).

<sup>14</sup> *Conservation & Development Policies Plan for Connecticut: Location Guide Map*, CT.gov, [http://www.ct.gov/opm/lib/opm/igp/org/cdupdate/lgm\\_adopted.pdf](http://www.ct.gov/opm/lib/opm/igp/org/cdupdate/lgm_adopted.pdf) (last visited Dec. 24, 2013).

<sup>15</sup> *Center for Land Use Education and Research*, Univ. Conn., <http://clear.uconn.edu/> (last visited Dec. 24, 2013).

### **Maine**

- Maine's Office of GIS has mapping technology, but it is not primarily intended for land use planning.<sup>16</sup>

### **Massachusetts**

- The mapping system of the Office of Geographic Information (MassGIS) is online and has data for watersheds, forests and agriculture, but does not necessarily have local zoning data.<sup>17</sup>
  - » The data is not primarily intended for land use planning.
  - » Municipalities can access and use the MassGIS. At additional cost, municipalities can buy software and hire GIS staff, who can then add new local data.

### **New Hampshire**

- The Geographically Referenced Analysis and Information Transfer System mapping system was created by the University of New Hampshire, in collaboration with the Office of Energy and Planning.<sup>18</sup>
  - » The system maps land uses, but is not primarily used for planning.

### **Rhode Island**

- The state created a land use map with GIS technology in 2006 and 2007.
- The map and data are available online as a resource for planners.<sup>19</sup>
- Rhode Island also has a future land use 2025 map, which was created as part of its State Guide Plan.
  - » This map identifies desired land uses and designates growth areas.
  - » It was included in the *Land Use 2025* state plan as a general guide for municipalities.

### **Vermont**

- The Vermont Center for Geographical Information is a public nonprofit organization that has comprehensive GIS mapping of the state.<sup>20</sup>
- The Vermont Agency of Natural Resources has a BioFinder map, which focuses on watersheds and natural resources.
- The mapping done by these entities is not primarily used for land use planning.

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<sup>16</sup> *Maine Office of GIS*, Maine.gov, <http://www.maine.gov/megis/> (last visited Dec. 24, 2013).

<sup>17</sup> *Office of Geographic Information*, Mass.gov, <http://www.mass.gov/anf/research-and-tech/it-serv-and-support/application-serv/office-of-geographic-information-massgis/> (last visited Dec. 24, 2013).

<sup>18</sup> *NH Grant*, Univ. N.H., <http://www.granit.unh.edu/> (last visited Dec. 24, 2013).

<sup>19</sup> *Rhode Island Geographic Information System*, RIGIS, <http://www.edc.uri.edu/rigis/>.

<sup>20</sup> *Vermont Center for Geographic Information*, Vermont.gov, <http://vcgi.vermont.gov/> (last visited Dec. 24, 2013).

## APPENDIX D: FARMLAND MITIGATION

### Federal

- The Natural Resources Conservation Service (NRCS) assessment measures the quality of farmland soils and other factors that affect farm viability, such as proximity to water and parcel size. Sites that score high, meaning they are more valuable for farming, require further analysis including the proposal of alternative sites. Federal agencies use this information to complete the overall site assessment.<sup>21</sup>
- In fiscal year 2011, an NRCS evaluation found that of a total of 202,513 acres that were proposed for conversion to nonagricultural uses, 49 percent were identified as important farmland. Approximately 3 percent of the reviews conducted by NRCS in fiscal year 2011 offered alternative sites. Two agencies — the Federal Highway Administration and the Department of Energy — accounted for 53 percent of all proposed conversions.<sup>22</sup>
- In addition to project evaluation, the Farmland Protection Policy Act directs each federal government agency to review its rules and procedures, with assistance from the U.S. Department of Agriculture (USDA), to determine whether any policies prevent the agency from complying with the law. Agencies must develop proposals to bring their programs into compliance and submit reports to NRCS describing steps taken to comply with the law.<sup>23</sup>

### Connecticut

- Conn. Gen. Stat. § 22-6 gives the commissioner of agriculture the authority to review projects.
- The statute has been used in at least one instance, when the town of Cromwell received funding through the state's Small Town Economic Assistance Program to develop a business park.
  - » Because the project included the development of nearly 100 acres of prime farmland, the commissioner of agriculture was able to review the project.
  - » Through subsequent negotiations, state funding for the project included a condition that the town must create a farmland preservation committee that was charged with conducting an inventory of farms, developing a farmland preservation strategy and identifying farms for conservation.
  - » A 2012 report from the committee includes a recommendation that the town create a farmland preservation program with the goal of protecting 200 acres, twice the acreage developed by the business park.<sup>24</sup>
- Connecticut's farmland mitigation policy is found in Conn. Gen. Stat. § 7-131o.

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<sup>21</sup> *Mitigation of Farmland Loss*, Am. Farmland Trust 3-26 (Sept. 2002) [hereinafter *Mitigation of Farmland Loss*], [http://www.farmlandinfo.org/sites/default/files/FPPA\\_Mitigation\\_Report\\_1.pdf](http://www.farmlandinfo.org/sites/default/files/FPPA_Mitigation_Report_1.pdf).

<sup>22</sup> *Farmland Protection Policy Act Annual Report for FY 2011*, USDA Natural Res. Conservation Serv. 3 (Feb. 2011), [http://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb1049239.pdf](http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1049239.pdf).

<sup>23</sup> *Mitigation of Farmland Loss*, *supra* note 21, at 5.

<sup>24</sup> *Final Report*, Town of Cromwell Farmland Preservation Comm. 1 (Feb. 9, 2012), <http://cromwellct.com/whatsnew%20files/2012/fpc%20final%20report%20text31612.pdf>.

***Massachusetts***

- Under Executive Order 193, state-owned land suitable for agriculture must be identified and state agencies controlling this land are required to coordinate agricultural land management policy with the Executive Office of Energy and Environmental Affairs and the Department of Agricultural Resources.
- The Massachusetts Environmental Policy Act is located in M.G.L.c. 30 § 61, and implementing regulations are found at 301 C.M.R. § 11.00.

***Vermont***

- Vermont's Act 250 is located in 10 V.S.A. ch. 151.

## APPENDIX E: PURCHASE OF AGRICULTURAL CONSERVATION EASEMENTS

- The Connecticut Farmland Preservation Program was created in 1978 by Conn. Gen. Stat. §§ 22-26aa to 22-26kk and has protected a total of 38,025 acres. The program has spent \$126 million in state funds through bonding and the Community Investment Act, and has leveraged an additional \$38 million from federal, local and private sources.<sup>25</sup>
- The Maine Farmland Protection Program was created in 1999 and has protected a total of 8,104 acres. The program has spent \$7.5 million in state funds through appropriations and bonding, and has leveraged an additional \$7.5 million from federal, local and private sources.<sup>26</sup>
- Massachusetts' Agricultural Preservation Restriction Program was created in 1977 by M.G.L.c. 20 § 23, and has protected a total of 67,143 acres. The program has spent \$203.8 million in state funds through bonding, appropriations, mitigation fees and transportation funding, and has leveraged an additional \$76 million from federal, local and private sources.<sup>27</sup>
- New Hampshire's three farmland protection programs — Agricultural Lands Preservation Program (created in 1979 by N.H. Rev. Stat. Ann. ch. 432:18-35); the Land Conservation Investment Program (created in 1987); and the Land and Community Heritage Investment Program (created in 2000 by N.H. Rev. Stat. Ann. ch. 227-M) — have protected a total of 13,590 acres. The programs have spent a combined total of \$16.2 million in state funds through appropriations, bonding and recording fees, and have leveraged an additional \$17.3 million from federal, local and private sources.<sup>28</sup>
- Rhode Island's Purchase of Farmland Development Rights Program was created in 1981 by R.I.G.L. chs. 42-82 and has protected a total of 6,645 acres. The program has spent \$30.3 million in state funds through bonding, appropriations and transportation funding, and has leveraged an additional \$43.9 million from federal, local and private sources.<sup>29</sup>
- Vermont's Farmland Preservation Program was created in 1987 by 6 V.C.A. ch. 2, and is run through the Vermont Housing and Conservation Board. The program has protected a total of 139,000 acres, has spent \$62.8 million in state funds through bonding, appropriations, mitigation fees, the real estate transfer tax and transportation funding, and has leveraged an additional \$79.6 million from federal, local and private sources.<sup>30</sup>

### Option to Purchase at Agricultural Value

- The Massachusetts' Agricultural Preservation Restriction Program includes an option to purchase the premises at farm market agricultural value for the state (or grantee) when the landowner enters into a purchase and sale agreement with a third party. Once a sale agreement has been reached, the landowner must notify the state, which will have 120 days to exercise the option to purchase. The state (or grantee) may also assign its right to purchase the land to another party, which "will facilitate the use of the premises for commercial agriculture." The option is not applicable when the transfer of ownership is to certain family members or to a co-owner.<sup>31</sup>

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<sup>25</sup> See *Fact Sheet: Status of State PACE Programs*, Am. Farmland Trust \*2 (Aug. 2005), [http://www.farmland.org/about/mission/documents/AFT\\_Pace\\_state\\_8-05.pdf](http://www.farmland.org/about/mission/documents/AFT_Pace_state_8-05.pdf).

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> See *Agricultural Conservation Easement Language from Selected Farmland Protection Programs*, Am. Farmland Trust \*55, [http://www.farmlandinfo.org/documents/39352/Easement\\_Language\\_No\\_Notes\\_October\\_2012.pdf](http://www.farmlandinfo.org/documents/39352/Easement_Language_No_Notes_October_2012.pdf) (last visited Dec. 24, 2013).

- The Vermont Farmland Preservation Program includes an option to purchase protected land at its agricultural value for the state (or grantee) when the landowner enters into a purchase and sale agreement with a third party. Once a sale agreement has been reached, the landowner must notify the state, which will have 30 days to exercise the option to purchase. This option is not applicable when the transfer of ownership is to certain family members or to a qualified farmer who earns at least half of his or her income from farming.
- Since fall 2012, there have been 98 resales of protected farms with an option to purchase at agricultural value in Massachusetts and 87 in Vermont.<sup>32</sup>
- The option to purchase at agricultural value was only considered in 10 of the 87 sales of protected farmland in Vermont; the remaining sales were between family members or to qualified farmers. In nine of the 10 cases that could have triggered the option to purchase at agricultural value, the option was not exercised based on the buyers' business plans for the farms and their credentials as prospective farmers. In the lone exception, the easement holder, Vermont Land Trust, purchased the farm and became an interim owner. In Massachusetts, all the sales of farms with the option to purchase at agricultural value were qualified sales and the option has not yet been exercised.<sup>33</sup>
- The review of protected farm sales in Massachusetts and Vermont found that existing farmers expanding their current farming operations represented the largest group of buyers. In Massachusetts, more than half of the individuals purchasing the protected land were doing so to expand existing farming operations. In Vermont, 78 percent of the arms-length, nonfamily, sales were to established farmers.<sup>34</sup>
- The analysis of protected farm resales in Vermont and Massachusetts clearly show that the option to purchase at agricultural value is working as intended, by keeping protected land in the hands of farmers and farm families. It is not necessarily ensuring that protected farmland is affordable to all sectors of farmers interested in purchasing it, however.<sup>35</sup>

### Conservation Tax Incentives

- Under the federal enhanced conservation tax incentive, which expired at the end of 2013, qualified farmers and ranchers could deduct up to 100 percent of their adjusted gross income for donating a conservation easement. Nonqualified farmers could deduct up to 50 percent of their adjusted gross income annually. The donor could carry forward unused portions of the deduction for 15 years.<sup>36</sup> Prior to enactment of the enhanced incentive in 2006, and under current law unless and until the enhanced incentive is reauthorized, the federal deduction for a conservation easement is limited to 30 percent of a donor's adjusted gross income and can be carried forward for only five years. Introduced in 2013, H.R. 2807 and S. 526 would make the enhanced incentives permanent and apply retroactively to easements donated since December 31, 2013. Neither measure had been acted on as of January 2014.<sup>37</sup>

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<sup>32</sup> *Does the Option at Agricultural Value Protect Farmland for Beginning Farmers? A Policy Analysis 4*, Land for Good (2013), <http://newyork.farmland.org/wp-content/uploads/2013/06/OPAV-FINAL.pdf>.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 5.

<sup>35</sup> *Id.* at 2.

<sup>36</sup> The enhanced incentive was created in the 2006 Pension Protection Act, extended through 2009 in the 2008 Farm Bill, and then extended through 2011 by section 723 of H. R. 4853. See *The Enhanced Easement Incentive*, Land Trust Alliance, <http://www.landtrustalliance.org/policy/tax-matters/campaigns/the-enhanced-easement-incentive> (last visited Jan. 13, 2014).

<sup>37</sup> See *The Enhanced Easement Incentive*, Land Trust Alliance, <http://www.landtrustalliance.org/policy/tax-matters/campaigns/the-enhanced-easement-incentive> (last visited Jan. 13, 2014).

- The Connecticut tax credit for the donation of open space was created in 1999 by Conn. Gen. Stat. § 12-217dd. It provides a state corporate income tax credit for donations or for any discount of the price in any sale of land or conservation easement. The value of the credit is 50 percent of the donation's fair market value. The sale or donation must be to the state, a water company or a nonprofit land conservation organization. The credit is not available for individuals and is not transferable, but may be carried forward for up to 25 years.<sup>38</sup> It is applicable to the conservation of water resources; soils, wetlands, beaches or tidal marshes; agricultural lands; and forestry lands larger than 25 acres.
- The Massachusetts Conservation Land Tax Credit was created in 2009 by M.G.L.c. 62 § 6(p) and M.G.L.c. 38AA. It provides a state income tax credit for donations or for any discount of the price in any sale of land or conservation easement. The value of the credit is 50 percent of the donation's fair market value, up to a maximum value of \$50,000. The credit is refundable; if a farmer or landowner does not have income against which to offset the credit in the year that the sale or gift was made, the state will refund to the landowner the difference, up to \$50,000 or 50 percent of the donated value, whichever is less. The program has a cap of \$2 million per year. The sale or donation must be to the state, a municipality or a nonprofit land conservation organization. To be eligible, the land must be in the public interest for natural resource protection, including drinking water supplies, wildlife habitat and biological diversity, agricultural and forestry production, recreational opportunities, or scenic and cultural values. An application process determines the land's eligibility.

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<sup>38</sup> Public Act 09-3 extended the carry-forward period from 15 years to 25 years, effective Sept. 9, 2009, and applicable to income years on or after Jan. 1, 2009. See An Act Concerning Certain State Programs and the American Recovery and Reinvestment Act of 2009, H.B. 6715, Conn. Pub. Act 09-03 (Apr. 15, 2009).

## APPENDIX F: URBAN AGRICULTURE: ZONING

### State Law

#### *Connecticut*

Conn. Gen. Stat. § 8-2 states that “zoning regulations shall be made with reasonable consideration for their impact on agriculture.”

#### *Massachusetts*

M.G.L.c. 40A § 3, contains a general prohibition against local zoning ordinances and bylaws regulating or restricting commercial agriculture parcels that are at least five acres, or at least two acres if each acre produces more than \$1,000 in gross sales.

#### *New Hampshire*

N.H. Rev. Stat. Ann. § 674:32-a creates a presumption that primary and accessory agricultural activities are permitted wherever they are not explicitly excluded uses, as long as they are “conducted in accordance with best management practices adopted by the commissioner of agriculture, markets, and food and with federal and state laws, regulations, and rules.” N.H. Rev. Stat. Ann. § 674:32-c(I) provides that tilling soil and harvesting crops, as a primary or accessory use, cannot be prohibited in any district. N.H. Rev. Stat. Ann. § 674:32-c (II) provides that such uses are subject to general building and site requirements, such as dimensional standards and setbacks, but creates a waiver process if those requirements would effectively prohibit agriculture that is otherwise permitted by that statute.

#### *Rhode Island*

State law provides that plant agriculture is a permitted use in all zoning districts — residential, commercial and industrial — except as necessary to protect public health or wildlife habitat, according to R.I.G.L. § 45-24-37(g). A municipality is otherwise free to restrict agricultural uses, as long as those regulations comply with Rhode Island’s Zoning Enabling Act, R.I.G.L. § 45-24.

#### *Vermont*

Vermont municipal bylaws “shall not regulate accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 V.S.A. §§ 1021(f) and 1259(f) and 6 V.S.A. § 4810.”<sup>39</sup> Accepted agricultural practices, as adopted, implemented and enforced by the secretary of agriculture, food, and markets, are standards applicable to “activities which have a potential for causing pollutants to enter the groundwater and waters of the state, including dairy and other livestock operations plus all forms of crop and nursery operations and on-farm or agricultural fairground, registered pursuant to 20 V.S.A. § 3902, livestock and poultry slaughter and processing activities.”<sup>40</sup> Anyone building a farm structure must notify the appropriate municipality of his or her intent to build, but need not obtain a permit from the municipality. Farm structures must abide by setbacks provided by the secretary of agriculture, food, and markets.<sup>41</sup>

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39 24 V.S.A. § 4413(d).

40 6 V.S.A. § 4810.

41 24 V.S.A. § 4413(d).

## APPENDIX G: BEGINNING FARMER TAX CREDIT

### Iowa Beginning Farmer Tax Credit

- The Agricultural Assets Transfer Tax Credit was created in 2006 by Iowa Code § 175.37 and provides a tax credit to the owners of agricultural assets, including agricultural land, depreciable machinery or equipment, breeding livestock and buildings, for leasing land or other assets to beginning farmers.
- To qualify, the beginning farmers to whom the owners lease must have a net worth of less than \$343,000; be at least 18 years old; and “have sufficient education and training to operate a production operation.”<sup>42</sup>
- The lease term must be between two and five years, and the lease value must be at or near market value.
- Tax credits are 5 percent of the rental income received for cash rent or 15 percent of the owner’s share of product for crop or livestock share agreements. The credit can be carried forward for five years and can be transferred to a related party.<sup>43</sup>
- From 2007 through 2011, the program issued 2,624 credits at a value of more than \$15 million.<sup>44</sup>

### Nebraska Beginning Farmer Tax Credit

- The Beginning Farmer Tax Credit was created in 2009 by the Neb. Rev. Stat. §§ 77-5201 to 77-5215. It provides a tax credit to the owners of agricultural assets, including agricultural land, cattle, tractors, grain storage, irrigation equipment and other assets, for leasing land or other assets to beginning farmers.
- To qualify, beginning farmers to whom the owners lease must have a net worth of less than \$200,000; have farmed or ranched fewer than 10 of the past 15 years; plan to farm full-time; have farming experience or education; and have participated in a financial management education program.
- Participating beginning farmers receive up to a \$500 tax credit reimbursement for the financial management class.
- The lease term must be three years and the lease value must be at or near market value.
- Tax credits are 10 percent of the rental income received for cash rent or 15 percent of the owner’s share of the product for crop or livestock share agreements.<sup>45</sup> From 2005 through 2009, the program issued credits to 435 asset owners at a value of \$1.9 million.<sup>46</sup>

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<sup>42</sup> Iowa Beginning Farmer Tax Credit, Iowa State Univ., [http://www.google.com/url?sa=t&rct=j&q=%22have%20sufficient%20education%20and%20training%20to%20operate%20a%20production%20operation%22source=web&cd=1&ved=OCCKQFjAA&url=http%3A%2F%2Fwww.calt.iastate.edu%2FPDF%2Flowa%2520Beginning%2520Farmer%2520Tax%2520Credit.docx&ei=OxW6UtmjMKzNsQTHz4G4Cw&usg=AFQjCNHOUkL\\_tt-kyVuarIi3pxYIWxekDQ&bvm=bv.58187178,d.cWc](http://www.google.com/url?sa=t&rct=j&q=%22have%20sufficient%20education%20and%20training%20to%20operate%20a%20production%20operation%22source=web&cd=1&ved=OCCKQFjAA&url=http%3A%2F%2Fwww.calt.iastate.edu%2FPDF%2Flowa%2520Beginning%2520Farmer%2520Tax%2520Credit.docx&ei=OxW6UtmjMKzNsQTHz4G4Cw&usg=AFQjCNHOUkL_tt-kyVuarIi3pxYIWxekDQ&bvm=bv.58187178,d.cWc) (last visited Dec. 24, 2013).

<sup>43</sup> See generally Iowa Beginning Farmer Tax Credit, Iowa Finance Auth., <http://iowafinanceauthority.gov/Public/Pages/PC204LN48> (last visited Dec. 24, 2013).

<sup>44</sup> *Id.*

<sup>45</sup> See generally Beginning Farmer Programs — Tax Credit Program, Neb. Dep’t of Agric., [http://www.agr.ne.gov/beg\\_farmer/taxcp.html](http://www.agr.ne.gov/beg_farmer/taxcp.html) (last visited Dec. 24, 2013).

<sup>46</sup> See Beginning Farmer Tax Credit Act—Annual Report, Neb. Dep’t of Agric. 5 (June 2009), <http://ncl.nc.state.ne.us/epubs/A5000/A004-200809.pdf>.

## APPENDIX H: FINANCING LAND ACQUISITION

### Beginning Farmer and Rancher Individual Development Accounts

- The Beginning Farmer and Rancher Individual Development Accounts Pilot Program was created in the 2008 Farm Bill (Food, Conservation, and Energy Act of 2008, section 5301).
- Eligible beginning farmers or ranchers are those who do not have significant financial resources or assets and have an income less than 80 percent of the median income of the state in which they live, or 200 percent of the most recent annual federal poverty income guidelines published by the Department of Health and Human Services.
- Any nonprofit organization, tribe, local or state government can apply to the USDA to receive a grant, establish and administer the individual development accounts, and provide access to business and financial education. State programs listed below could potentially participate in the program if they were designed to meet the program objectives of purchasing farmland, farm equipment or other assets. The administering entity of the program establishes a reserve fund made up of the total amount of the individual development account grant — up to \$250,000 — and a nonfederal match of 50 percent of that award.
- Once a participating organization establishes a beginning farmer individual development account project, an eligible beginning farmer or rancher can set up an account with the organization and deposit money. The organization then matches the amount the farmer deposited at a rate of at least 100 percent and up to 200 percent. Up to \$3,000 of an individual's savings can be matched per year.
- Program participants are required to complete financial training programs and develop a savings plan before the funds may be withdrawn to purchase assets.

### Connecticut Individual Development Account Initiative

- The Connecticut Individual Development Account Initiative was created by the state's General Assembly in 2000 through Public Act 00-192. It is designed to help families and individuals purchase assets including a home, small business, post-secondary education or vehicle, or place a deposit on an apartment. As of 2011, the Connecticut legislature has appropriated roughly \$2.34 million to the Department of Labor for the initiative.<sup>47</sup>
- Businesses that contribute to state funds for the Individual Development Account Initiative can receive tax credits through the state's Human Capital Investment Tax Credit.<sup>48</sup>

### Maine Family Development Account

- Title 10 M.R.S. sections 1075-79 establish a family development account program that lets eligible people establish savings accounts for education, job training, purchasing or repairing a home, purchasing or repairing a vehicle for access to work or education, capitalization of a small business, health care costs greater than \$500 not covered by private or public insurance, or other basic necessities. The program is administered by community development organizations.

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<sup>47</sup> See generally *Connecticut Individual Development Account Initiative*, Conn. Dep't of Labor, <http://www.ctdol.state.ct.us/ida/idahome.htm>.

<sup>48</sup> See *Connecticut Individual Development Account Initiative (IDA): Frequently Asked Questions*, Conn. Dep't of Labor, <http://www.ctdol.state.ct.us/ida/dir/faq.html> (last visited Dec. 24, 2013).

### **Massachusetts Individual Development Account Program**

- The Individual Development Account program is administered by the Massachusetts Department of Housing and Community Development and allows low-income participants to save for the purchase of a first home, receive post-secondary education or training, or start or expand a small business. The program received \$600,000 in state funding in fiscal year 2008 and \$700,000 in fiscal year 2009.<sup>49</sup>

### **New Hampshire**

- Some individual development account programs exist, but are administered by nongovernmental agencies.

### **Vermont Individual Development Accounts**

- The Individual Development Account program is administered by the Vermont Department for Children and Families through Community Action Agencies. The program helps income-eligible individuals save money to buy a home, pursue higher education or capitalize a small business. Participants' savings are matched at varying rates by third parties such as businesses, government, financial institutions or philanthropic organizations. Savings are matched two-to-one on \$500 savings for up to two years.<sup>50</sup>

### **Delaware Young Farmers Farmland Purchase and Preservation Loan Program**

- This program is designed to help young farmers acquire farmland through a long-term, no-interest loan, which cannot exceed \$500,000.
- In exchange for the loan, the farmland being acquired is subjected at closing to a permanent preservation easement.
- The eligibility criteria include:
  - » The applicant must be between 18 and 40 years old at the time the loan
  - » The applicant must have a net worth of no more than \$300,000.
  - » The farmland must contain at least 15 tillable acres, and the applicant must not own or have an ownership interest in more than twice the tillable acres subject to purchase with funds from the program.
  - » The applicant must commit that he or she will remain actively engaged in agricultural usage of the farmland during the term of the program loan.<sup>51</sup>

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<sup>49</sup> See *Individual Development Account*, Mass.gov, <http://www.mass.gov/hed/community/funding/individual-development-account-ida.html> (last visited Dec. 24, 2013).

<sup>50</sup> See *generally Individual Development Accounts*, Vermont.gov, <http://dcf.vermont.gov/oeo/ida> (last visited Dec. 24 2013).

<sup>51</sup> See *Farmland Purchase and Preservation Loan Program Procedures and Guidelines*, Del. Agric. Lands Preservation Found., [http://dda.delaware.gov/young\\_farmers\\_packet.pdf](http://dda.delaware.gov/young_farmers_packet.pdf) (last visited Dec. 24, 2013).

### **New Brunswick New Land Purchase Program**

- The program in New Brunswick, Canada, purchases land and leases it to an applicant for up to six years. The applicant agrees to purchase the land at the end of the lease.
  - » During the first and second years, annual lease payments are deferred based on the equivalent of the annual provincial lending rate and the lease amount.
  - » Starting in year three, annual lease payments are made at the beginning of each year.
- The eligibility criteria include:
  - » The proposed land has not had any agricultural crop produced or harvested during the previous two years.
  - » A business plan must be developed and show reasonable chances of viability.<sup>52</sup>

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<sup>52</sup> See *New Land Purchase Program*, New Brunswick, Ca., [http://www2.gnb.ca/content/gnb/en/services/services\\_renderer.201160.New\\_Land\\_Purchase\\_Program\\_.html](http://www2.gnb.ca/content/gnb/en/services/services_renderer.201160.New_Land_Purchase_Program_.html) (last visited Dec. 24, 2013).

## APPENDIX I: BEGINNING FARMERS AND NEW FARM ENTERPRISES

### New Farmer Training

#### College and University Degree Programs

- The following are examples of agricultural degree programs in New England:
  - » The University of Maine's Sustainable Agriculture Program offers an interdisciplinary bachelor of science for beginning farmers with the faculties of the departments of plant, soil and environmental sciences, biology, and resource economics and policy. Courses include cropping systems, soil organic matter management, weed identification, and soil chemistry and plant nutrition. Graduate students conducting research in sustainable agriculture can earn master's degree or doctorate in various departments.<sup>53</sup>
  - » The University of Connecticut's College of Agriculture and Natural Resources offers a bachelor of science in 15 majors, including animal science, horticulture and turfgrass and soil science. The Ratcliffe Hicks School of Agriculture has a two-year associate degree with majors in ornamental horticulture, turfgrass management and animal science, which offers concentrations in equine science or dairy and livestock management.<sup>54</sup>
  - » The University of New Hampshire offers an EcoGastronomy dual major, which can be paired with any primary major. EcoGastronomy integrates sustainable agriculture, hospitality management and nutrition, and emphasizes "the interdisciplinary, international, and experiential knowledge that connects all three fields."<sup>55</sup> The University of New Hampshire also offers degrees in sustainable agriculture and food systems, as well as integrated agriculture management.<sup>56</sup>

### Business Planning

#### Massachusetts Matching Enterprise Grants for Agriculture Program

- This program is intended to help start up farm enterprises.
- Farmers do not need to own their land, but must have a written lease agreement.
- Funding of up to \$10,000 must be matched one-to-one.<sup>57</sup>
- In 2013, a total of \$82,600 was awarded to 10 projects, including for the purchase of equipment to improve production and post-harvest operations and equipment to create value-added products. Funding also went toward infrastructure improvements, such as irrigation systems and farm stands.<sup>58</sup>

### Access to Capital

#### USDA-Farm Service Agency

- Under the Down Payment Program, the maximum Farm Service Agency (FSA) loan amount is \$225,000. The remaining portion must come from other sources. The loan term is 20 years, with

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<sup>53</sup> *Sustainable Agriculture Program*, Univ. of Me., <http://umaine.edu/sag/more/> (last visited Dec. 24, 2013).

<sup>54</sup> *College of Agriculture and Natural Resources: Degree Programs*, Univ. of Conn., <http://www.myagrn.uconn.edu/degrees.php> (last visited Dec. 24, 2013).

<sup>55</sup> *Dual Major in EcoGastronomy*, Univ. of N.H., <http://www.unh.edu/ecogastronomy/> (last visited Dec. 24, 2013).

<sup>56</sup> *Sustainable Agriculture and Food Systems*, Univ. of N.H., <http://www.sustainableag.unh.edu/> (last visited Dec. 2, 2013); *Thompson School of Applied Science*, Univ. of N.H., <http://www.thompsonschooll.unh.edu/hort/iamt> (last visited Dec. 24, 2013).

<sup>57</sup> *See Matching Enterprise Grants for Agriculture Program*, Mass.gov, <http://www.mass.gov/eea/agencies/agr/about/divisions/mega.html> (last visited Dec. 24, 2013).

<sup>58</sup> *Patrick-Murray Administration Awards Matching Grants for Beginning Massachusetts Farms*, Mass.gov, <http://www.mass.gov/eea/pr-2013/admin-awards-matching-grants-for-beginning-ma-farms.html> (last visited Dec. 24, 2013).

an interest rate that is 4 percent lower than the regular FSA direct ownership loan rate, but no less than 1.5 percent.<sup>59</sup>

- Under the Loan Contract Guarantees Program, the buyer must provide a down payment of at least 5 percent. The guarantee period is 10 years.<sup>60</sup>
- The microloan program is administered through the Operating Loan Program. The microloan program includes financing for niche crops sold directly to ethnic markets and farmers markets. Loans can cover initial start-up expenses such as hoop houses, tools, irrigation, delivery vehicles, and annual expenses such as seed, fertilizer, utilities, land rental, marketing and distribution expenses.<sup>61</sup>
- The Farm Service Agency reserves a portion of several loan funds exclusively for beginning farmers, including 35 percent of Direct Farm Operating loans, 40 percent of Guaranteed Operating loans, 70 percent of Direct Farm Ownership loans and 25 percent of Guaranteed Farm Ownership loans.<sup>62</sup>
  - » Direct Operating loans of up to \$300,000 may be used for normal operating expenses, machinery and equipment, minor real estate repairs or improvements, and refinancing debt. The repayment term may vary, but typically will not exceed seven years; annual operating loans are generally repaid within 12 months.<sup>63</sup>
  - » In a Guaranteed Operating loan, the FSA guarantees up to 90 percent (95 percent in certain cases) of a loan from a commercial lender for normal operating expenses, machinery and equipment, minor real estate repairs or improvements, and refinancing debt. The guarantee is limited to \$1.3 million, adjusted annually for inflation; the repayment term may vary, but typically will not exceed seven years; annual operating loans are generally repaid within 12 months.<sup>64</sup>
  - » Direct Farm Ownership loans of up to \$300,000 may be used to purchase a farm, enlarge an existing farm, construct new farm buildings, improve farm structures, or pay closing costs. The maximum repayment term is 40 years.<sup>65</sup>
  - » In a Guaranteed Farm Ownership loan, the FSA will guarantee up to 90 percent (95 percent in certain cases) of a loan from a commercial lender to purchase a farm, enlarge an existing farm, construct new farm buildings, improve farm structures, or pay closing costs. The guarantee is limited to \$1.3 million, adjusted annually for inflation; the maximum repayment term is 40 years.<sup>66</sup>

### Aggie Bonds

- Under an Aggie Bond program, a state creates a bond that allows lenders to earn federally tax-exempt interest on loans to eligible beginning farmers and ranchers. With these tax savings, lenders can offer reduced rates on these loans. Aggie Bonds were enhanced in the 2008 Farm Bill by increasing the maximum loan amount for land to \$450,000 per farmer, adjusted annually for

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<sup>59</sup> *Farm Service Agency Guaranteed Lender Training*, USDA 43 (Sept. 2013), [http://www.fsa.usda.gov/Internet/FSA\\_File/2013fsagulendertraining.pdf](http://www.fsa.usda.gov/Internet/FSA_File/2013fsagulendertraining.pdf).

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 41.

<sup>62</sup> See generally *Beginning Farmers and Ranchers Loans*, USDA, <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=fmlp&topic=bfl> (last visited Dec. 24, 2013).

<sup>63</sup> *Fact Sheet: Farm Loans*, USDA 1 (Oct. 2012), [http://www.fsa.usda.gov/Internet/FSA\\_File/loanprograms2012.pdf](http://www.fsa.usda.gov/Internet/FSA_File/loanprograms2012.pdf).

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

inflation. An earlier stipulation that beginning farmers and ranchers could not have previously owned real estate valuing more than \$125,000 was also removed from the provision in 2008.<sup>67</sup>

### **USDA Beginning Farmer and Rancher Development Program**

- The Beginning Farmer and Rancher Development Program is a grant program administered by the USDA National Institute of Food and Agriculture. Collaborative state, local or regionally based networks and partnerships between public and private entities are eligible to apply. These may include a state cooperative extension service, a state agency, a community-based, nongovernmental organization, or a college or university. Grants are limited to three years and \$250,000 per year, with a minimum 25 percent nonfederal match.<sup>68</sup>
- The program addresses production and management strategies to enhance land stewardship; business management and decision support strategies that enhance financial viability, marketing strategies that enhance competitiveness, legal strategies that assist with farm or land acquisition and transfer, and other topics to enhance competitiveness and sustainability.

### **Recent Beginning Farmer and Rancher Development Grants Made to New England Entities<sup>69</sup>**

#### **2012**

- The University of Connecticut Cooperative Extension System received \$520,026 for *Scaling Up: Helping Connecticut's Beginning Farmers Evolve from Small-Scale Enterprises into Viable Farm Businesses*. The project offers tailored support to 10 beginning farmers to evolve their small-scale farms to viable farm businesses. In a second phase, the project will develop new training tools and curriculum in production planning, farm infrastructure and non-production management. The project will assist farmers looking for farmland to lease and host a scaling up conference.<sup>70</sup>
- The Massachusetts-based Community Involved in Sustaining Agriculture received \$65,594 for a project to build capacity through training on land acquisition, marketing and business strategies.
- The Organization for Refugee and Immigrant Success received \$358,484 for a project to help new Americans build sustainable farm enterprises that are consistent with their culture and lifestyle aspirations and that strengthen regional, sustainable food systems as a whole.

#### **2011**

- The Maine Organic Farmers and Gardeners Association received \$532,045 to enhance and expand its Journeyperson Farm Training Program, which offers a two-year package of educational and financial support — including mentorship from an experienced farmer, business and management training and scholarship funds — to new farmers in Maine.
- The Somali Bantu Association of New Hampshire received \$78,889 to help Somali Bantu, Bhutanese and other refugee groups build sustainable farm enterprises that are consistent with their culture and lifestyle aspirations and that strengthen regional, sustainable food systems as a whole.

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<sup>67</sup> State with Aggie Bond programs: Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Maryland, Minnesota, Missouri, Montana, Nebraska, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Dakota and Washington. See *Index of U.S. States' Agricultural Finance Programs*, Nat'l Council of State Agric. Finance Programs, <http://www.stateagfinance.org/#> (last visited Dec. 24, 2013).

<sup>68</sup> See *Guide to USDA Funding for Local and Regional Food Systems*, Nat'l Sustainable Agric. Coal. 4-14 (Apr. 2010), [http://sustainableagriculture.net/wp-content/uploads/2010/05/NSAC\\_FoodSystemsFundingGuide\\_FirstEdition\\_4\\_2010.pdf](http://sustainableagriculture.net/wp-content/uploads/2010/05/NSAC_FoodSystemsFundingGuide_FirstEdition_4_2010.pdf).

<sup>69</sup> *Current Research Information System*, USDA, [http://cris.nifa.usda.gov/cgi-bin/starfinder/O?path=fastlink1.txt&id=anon&pass=&search=CG=\(\\*-49400\\*\)%20AND%20GY=2009:2012&format=WEBTITLES&](http://cris.nifa.usda.gov/cgi-bin/starfinder/O?path=fastlink1.txt&id=anon&pass=&search=CG=(*-49400*)%20AND%20GY=2009:2012&format=WEBTITLES&) (last visited Dec. 24, 2013).

<sup>70</sup> Interview with Jiff Martin, Sustainable Food Systems, Univ. Conn. Coop. Extension (Nov. 27, 2012).

- The Rhode Island Association of Conservation Districts received \$148,853 to provide beginning farmers with access to land, equipment and mentoring while they hone their skills and establish their businesses. The grant helped establish a shared equipment bank and develop an online decision-making exploration tool and farm business course modules to improve access to regionally relevant information.
- The Vermont New Farmer Network Strategies for Success project, at the University of Vermont's Extension received \$659,784 for a three-year effort to strengthen capacity providing education, technical assistance, coaching and mentoring to beginning farmers in the areas of production and management strategies, business management and decision support, marketing strategies, legal strategies, and topics related to processing safe and nutritious food.

## **2010**

- Nuestras Raices received \$740,131 for Tierra de Oportunidades, an immigrant and refugee beginning farmer training and incubation program in western and central Massachusetts.
- The Friedman School of Nutrition Science and Policy at Tufts University received \$749,014 for the Massachusetts Beginning Farmer Agricultural Alliance, a statewide collaboration of farmers and more than 40 farm service providers. The program's aim was to promote and coordinate education, training and technical assistance opportunities for hundreds of beginning farmers.
- Land For Good received \$547,307 for a project to assure land access for New England's beginning farmers by filling specific program gaps, building professional capacity, informing and assisting target audiences, and developing and disseminating land tenure and transfer innovations.

## **2009**

- Cultivating Community received \$600,000 for a project called Cultivating New American Farmers and Youth Entrepreneurs in Maine and New Hampshire. The project worked to increase participant's self-sufficiency by providing job training and/or relevant marketing, financial and business planning information.

## APPENDIX J: ACCESS TO WATER

### **State Water Allocation Programs**

#### ***Connecticut***

The Connecticut Water Diversion Policy Act (Conn. Gen. Stat. §§ 22a-365 to 22a-378) requires anyone who wants to withdraw water to first obtain a permit. The commissioner of energy and environmental protection may grant or deny such a permit based on several factors reflecting a standard reasonable-use balancing test. Grandfathered pre-1982 water extractions must be reported to the commissioner, but agricultural extractions may be estimated.

#### ***Maine***

The Maine Natural Resources Protection Act (38 M.R.S. §§ 480-A to 480-HH) requires any person “draining or otherwise dewatering” a body of water to first obtain a permit. The Department of Environmental Protection may grant or deny such a permit based on several factors reflecting a standard reasonable-use balancing test. The Maine Water Withdrawal Reporting Program (Me. Rev. Stat. tit. 38, §§ 470-A to 470-H) generally requires large withdrawals of water to be reported. The threshold for reporting is determined relative to the size of the water body from which water is being withdrawn. Agricultural producers, however, are exempt from this reporting requirement. Overall, water withdrawals may not draw down streams below a level that protects both water quality and aquatic life.

#### ***Massachusetts***

The Massachusetts Water Management Act (M.G.L.c. 21G) requires anyone withdrawing more than 100,000 gallons of water per day to first get a permit. The Department of Environmental Protection may grant or deny such a permit based on several factors reflecting a standard reasonable-use balancing test.

#### ***New Hampshire***

The New Hampshire Groundwater Protection Act (N.H. Rev. Stat. ch. 485C) requires anyone withdrawing more than 57,600 gallons of groundwater per day to get prior approval from the Department of Environmental Services. The department may grant or deny such approval based on several factors reflecting a standard reasonable-use balancing test. N.H. Rev. Stat. ch. 488 requires anyone who withdraws 20,000 gallons per day or 600,000 gallons per 30-month period to register this withdrawal with the department.

#### ***Rhode Island***

Rhode Island has no water-allocation permitting regime.

#### ***Vermont***

A chapter of the Vermont Statutes titled Groundwater Protection (10 V.S.A. ch. 48) requires anyone withdrawing 57,600 gallons of water per day to first obtain a permit. Groundwater withdrawal for agriculture is exempt from this permit requirement. Vermont also generally requires anyone withdrawing 20,000 gallons of water per day to register this withdrawal with the secretary of natural resources. Groundwater withdrawal for agriculture and for dairy farmers is exempt from this reporting requirement.

## APPENDIX K: RESEARCH, DEVELOPMENT AND EXTENSION

### USDA National Institute of Food and Agriculture

- The National Institute of Food and Agriculture was created in the 2008 Farm Bill as a reorganization of the USDA Research, Education and Economics and the former Cooperative State Research, Education and Extension Service.<sup>71</sup>
- The Institute's nearly 40 competitive grant programs for research, extension and higher education activities include multiple funding opportunities. Eligibility and funding levels vary widely and some grants are addressed in other sections of this report.<sup>72</sup>
- Through at least 11 formula grants, the National Institute of Food and Agriculture provides funding to land-grant institutions, schools of forestry and veterinary schools. The level of funding provided to each institution under formula grants is determined by a method, often defined in federal statutes, that includes variables such as farm and rural populations. Decisions about the allocation of these funds to specific projects are made at the state or university level.
- The institute provides noncompetitive grant funding for projects authorized by Congress to support a designated institution or set of institutions for particular research, education or extension topics of importance to a state or region.<sup>73</sup>

### Agricultural Experiment Stations

- The Hatch Act of 1887 initiated federal funding for stations and established them as part of land-grant colleges across the country; the stations work closely with cooperative extension.
- Most stations still operate under the colleges, although some, such as the Connecticut Agricultural Experiment Station, are separate state agencies.
- Experiment stations exist in all six New England states and often have multiple locations.
- Important research continues today: In Massachusetts, for example, scientists are examining the possible effects of climate change by exploring the impact on agricultural crops of increased carbon dioxide and ozone levels.<sup>74</sup>
- The focus of experiment stations has expanded and covers a range of topics. In Rhode Island, for example, research focus areas include aquaculture and fishing, food safety, health and well-being of fish and animals, landscape horticulture, natural resources, nutrition, and sustainable and nurturing communities.<sup>75</sup>

### Sustainable Agriculture Research and Education Program

- The Sustainable Agriculture Research and Education (SARE) program is part of the National Institute of Food and Agriculture. SARE-funded projects range from large, multiyear endeavors that may be awarded grants of between \$30,000 and \$200,000, to smaller, shorter-term

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<sup>71</sup> See USDA Nat'l Inst. of Food and Agric., <http://www.csrees.usda.gov/index.html> (last visited Dec. 24, 2013).

<sup>72</sup> See *Federal Assistance*, USDA Nat'l Inst. of Food and Agric., [http://www.csrees.usda.gov/about/fed\\_asst.html#formulaGrants](http://www.csrees.usda.gov/about/fed_asst.html#formulaGrants) (last visited Dec. 24, 2013).

<sup>73</sup> See *id.*

<sup>74</sup> See *Current Research Projects*, Univ. Mass. Amherst, <http://ag.umass.edu/current-research-projects> (last visited Dec. 24, 2013).

<sup>75</sup> *Rhode Island Agricultural Experiment Station*, The Univ. of R.I., <http://web.uri.edu/riaes/research/> (last visited Dec. 24, 2013).

projects that receive grants of \$15,000 or less. Eligibility varies and a variety of grant programs is available.<sup>76</sup>

- Research and Education grants typically range from \$10,000 to \$200,000, and are available to researchers and nonprofits, university and extension staff, and research farms and experiment stations. Funded projects offer research, education and demonstration projects that benefit farmers and explore new sustainable farming practices.<sup>77</sup>
  - » In grant year 2010, for example, the University of Vermont was awarded \$195,781 to explore ways to improve the energy efficiency of greenhouses and subsequently reduce production costs.
  - » In 2010, the University of Massachusetts was awarded \$193,557 to examine methods to expand cold season production of vegetables and storage of fall crops to help meet the demand for local food in winter months.<sup>78</sup>
- Farmer Grants of \$1,000 to \$15,000 are available to commercial farmers who have an innovative idea they want to test using a field trial, on-farm demonstration, marketing initiative or other technique.
  - » In 2012 a Massachusetts farm was awarded \$14,951 to explore the use of small sensors through mobile applications on smartphones and tablets to monitor temperature, moisture and other variables on vegetable farms.
  - » In 2010 a Maine farm was awarded \$7,314 to determine the potential for dairy farmers to grow buckwheat for hay or silage on marginal land, which could reduce feed costs and make better use of available land.<sup>79</sup>
- Agricultural service providers, such as extension staff and state departments of agriculture, are eligible for Partnership Grants of up to \$15,000. These grants allow service providers to conduct on-farm demonstrations, research, marketing and other projects with farmers as active cooperators.
  - » A grant of \$14,923 in 2012 allowed researchers to explore the impact of climate change on rice production, particularly as relates to available water.<sup>80</sup>

### **Cooperative Extension**

- Land-grant colleges were established by the Morrill Act of 1862, which granted federal land to each state to create a college of agriculture; many grew to become large state universities.
- New England's six land grant universities are the University of Connecticut, the University of Maine, the University of Massachusetts Amherst, the University of New Hampshire, the University of Rhode Island and the University of Vermont.

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<sup>76</sup> The Northeast SARE region also includes Delaware, Maryland, New Jersey, New York, Pennsylvania and West Virginia. *Grants and Education to Advance Innovations in Sustainable Agriculture*, Northeast SARE, <http://www.nesare.org/> (last visited Dec. 24, 2013).

<sup>77</sup> *Research and Education Grant Overview*, Northeast SARE, <http://www.nesare.org/Grants/Get-a-Grant/Research-and-Education-Grant/Grant-Overview> (last visited Dec. 24, 2013).

<sup>78</sup> *See generally Research and Education Grant Examples*, Northeast SARE, <http://www.nesare.org/Grants/Get-a-Grant/Research-and-Education-Grant/Grant-Examples> (last visited Dec. 24, 2013).

<sup>79</sup> *See Farmer Grants*, Northeast SARE, <http://www.nesare.org/Grants/Get-a-Grant/Farmer-Grant> (last visited Dec. 24, 2013).

<sup>80</sup> *See Partnership Grants*, Northeast SARE, <http://www.nesare.org/Grants/Get-a-Grant/Partnership-Grant> (last visited Dec. 24, 2013).

- Examples of cooperative extension's areas of focus in New England include: integrated pest management; animal agriculture and veterinary medicine; pasture management; soil, fertilization and nutrient management; and farm business management.
- Examples of the extension system's support for non-farming programs for urban and suburban communities include education for home and landowners about composting, lawn management, and recycling; consumer education including food safety, nutrition and child care; and community development activities such as helping local governments address job creation, local business development and land use planning.<sup>81</sup>

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<sup>81</sup> See *About Us*, USDA, <http://www.csrees.usda.gov/qlinks/extension.html> (last visited Dec. 24, 2013).

## APPENDIX L: BUSINESS PLANNING AND ASSISTANCE

### **Farm Viability Programs**

#### ***Connecticut Farm Transition Program***

- The Farm Transition Program offers grants of less than \$50,000 and was created by Conn. Gen. Stat. § 22-26j.
- One of the program's goals is to "support educational activities that will advance agricultural practices and assist beginning and/or new farmers."
- Applicants must be a registered farm business or agricultural cooperative and provide a 50 percent cash match and a business plan.<sup>82</sup>
- In 2012, 16 producers received grants worth a total of \$466,611. The awarded projects included doubling the size of a greenhouse in order to begin production of lettuce, expanding an indoor mushroom growing facility to increase retail sales of exotic mushrooms, and constructing a milk house creamery for cheese making. In 2011, \$322,800 was awarded for 11 projects, and \$554,632 was awarded in 2010 for 21 projects.<sup>83</sup>

#### ***Connecticut Farm Reinvestment Grant Program***

- Competitive grants of up to \$40,000 are awarded based on the quality of a submitted business plan.
- Funds must be used for projects that are defined as capital fixed assets and have a life expectancy of 10 years or more.
- The funds may be used to expand existing agricultural facilities, to diversify or expand into new production areas, and to make site improvements related to such expansion or diversification.
- Applicants must provide at least a 50 percent match of the total project cost. Any producer with a business plan and three years of farm businesses tax forms is eligible to apply.<sup>84</sup>

#### ***Maine Farms for the Future Program***

- The Maine Farms for the Future program was created by Me. Rev. Stat. tit. 7, chapter 10-B, and is designed to help farmers develop and implement a successful business plan.
- In the program's first phase, funds may be used to hire consultants, conduct research or pay for training; business counselors are provided.
- The program does not target beginning farmers specifically, but those who have been producing agricultural products commercially for two years are eligible. Applicants must own their land or have a long-term lease and the landowner must co-sign the application.<sup>85</sup>
- In 2011, the program awarded 15 Phase 1 grants; 208 farms had participated by early 2012.
- In 2007 and 2008 an independent evaluation of the program found that:

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<sup>82</sup> 2012 Agricultural Viability Grants Program, Conn. Dep't of Agric. 3 (Nov. 9, 2012), [http://www.ct.gov/doag/lib/doag/marketing\\_files/ag\\_viability\\_application\\_and\\_eval\\_12.pdf](http://www.ct.gov/doag/lib/doag/marketing_files/ag_viability_application_and_eval_12.pdf).

<sup>83</sup> See 2012 Agriculture Viability Grants Awarded, Conn. Dep't of Agric.; 2010–2011 Ag Viability Grants, Conn. Dep't of Agric.; Ag Viability Grants 2009–2010, Conn. Dep't of Agric.

<sup>84</sup> See Farm Reinvestment Program: 2012 Grant, Conn. Dep't of Agric. 2 (Apr. 30, 2012), [http://www.ct.gov/doag/lib/doag/marketing\\_files/frp\\_application\\_2012.pdf](http://www.ct.gov/doag/lib/doag/marketing_files/frp_application_2012.pdf).

<sup>85</sup> See, e.g., Appendix A - Part 1- Cover Page, Department of Agriculture, Conservation and Forestry, Maine Farms for the Future Program - Round 13, Me. Dep't of Agric., Food, and Rural Res. 2, 18 (Oct. 2012), <http://www.maine.gov/agriculture/mpd/farmland/future.html>.

- » Participants' gross sales increased an average of 37 percent after completing the program;
- » 66 percent of participants reported a net increase in profits;
- » 83 percent stated that their farm's production had increased due to participation in the program;
- » 55 percent reported they had added new farm products; and
- » 63 percent had entered into new marketing channels as a result of participating in the program.<sup>86</sup>

#### ***Massachusetts Farm Viability Enhancement Program***

- The Massachusetts Farm Viability Enhancement Program, run by the Department of Agricultural Resources, offers up to \$25,000 for a five-year covenant, up to \$50,000 for a 10-year covenant, and up to \$75,000 for a 10-year covenant on farms with at least 135 acres. To be eligible, farmers must own at least five acres of land and have managed the land for at least three years.<sup>87</sup>
- As of 2012, 449 farms have participated in the Farm Viability Enhancement Program, which has provided more than \$15 million in grants since 1996.
- The 2012 grant round provided business plans for 15 farms; \$125,000 was spent on technical assistance; \$925,000 was provided in direct grants. In 2012, projects included farm stand expansion, new dairy barns, equipment purchases and livestock fencing.<sup>88</sup>

#### ***Vermont Farm Viability Enhancement Program***

- The Farm Viability Enhancement Program was established in 2003 by 6 V.S.A. § 4710 and is administered by the Vermont Housing and Conservation Board.
- Farm business planners who work with program participants are from partner organizations including the University of Vermont cooperative extension, the Intervale Center, the Northeast Organic Farming Association of Vermont, and Land for Good.
- Eligible farmers can own or lease land, should have three years of farm experience, and have earned \$10,000 or more of gross farm income in the previous year.<sup>89</sup>
- Since 2003, the program has provided assistance to 336 farms; in 2011, 40 farms were enrolled.
- Surveys conducted after the completion of the business plan and at the end of a second year display positive results. For farmers enrolled in 2010, 97 percent to 100 percent reported their financial analysis skills and business planning skills improved as a result of enrolling in the program.<sup>90</sup>

#### ***Vermont Working Lands Enterprise Initiative***

- The fund is directed by a board and administered by the Vermont Agency of Agriculture, Food, and Markets.<sup>91</sup>

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<sup>86</sup> See Progress Report on the Maine Farms for the Future Program, Me. Dep't of Agric., Food, and Rural Res. (Mar. 1, 2012).

<sup>87</sup> See generally *Farm Viability Enhancement Program*, Mass. Dep't of Agric. Res., <http://www.mass.gov/eea/agencies/agr/about/divisions/fvep.html> (last visited Dec. 24, 2013).

<sup>88</sup> See *id.*

<sup>89</sup> See *Vermont Farm Viability Enhancement Program*, Vt. Housing and Conservation Bd., <http://www.vhcb.org/viability.html#brochure> (last visited Dec. 24, 2013).

<sup>90</sup> See *Vermont Farm Viability Program: 2011 Annual Report*, Vt. Farm Viability Program (Jan. 31, 2012), <http://www.vhcb.org/pdfs/viability2011ar.pdf>.

<sup>91</sup> See *Vermont Working Lands Initiative*, Vermont Working Lands Enterprise Initiative 1-2, [http://www.vermontagriculture.com/news/2012/working\\_lands\\_one\\_pager.pdf](http://www.vermontagriculture.com/news/2012/working_lands_one_pager.pdf) (last visited Dec. 24, 2013).

- The initiative includes three grant opportunities:
  - » Enterprise Investments provide grants between \$3,000 and \$15,000 to new or growing businesses and will provide business and technical assistance and infrastructure development to producers. A 25 percent match is required.
  - » Working Lands Service Provider Grants of \$10,000 to \$100,000 are available to nonprofits, associations and colleges. Funds may be used by service providers to offer training, technical assistance, needs assessments, product research, marketing assistance, market development, business and financial planning, access to capital and to address workforce needs. A 50 percent match is required.
  - » Finally, Capital and Infrastructure Investments grants of \$15,000 to \$100,000 are available to producers and nonprofit organizations including food hubs, farmers markets and shared processing facilities for capital investments to increase operational capacity and have an impact on their industry beyond their immediate business. Eligible activities include: hiring specialized personnel; purchasing land or easements; paying for building and equipment costs such as processing, storage or distribution; financing for long-term working capital; and other collaborative ventures that build capacity within the supply chain or open new markets. A 50 percent match is required.<sup>92</sup>

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<sup>92</sup> *Id.* at 2.

## APPENDIX M: INSTITUTIONAL MARKETS

### State Policies

#### *Massachusetts*

- Massachusetts' local purchasing preference law is at M.G.L.c. 7 § 23B.
- The Massachusetts law that enables local governments, including school districts, to establish a preference for local farm products is at M.G.L.c. 30B §§ 2 and 20.
- A procurement officer for any local government, including school districts, may purchase local agricultural products directly from farm businesses without seeking quotes required under the normal bidding process, as long as the individual purchases are less than \$25,000, according to M.G.L.c. 30B § 4(d).

### Federal Policy

- The federal geographic preference option was authorized in section 4302 of the 2008 Farm Bill.
- Unprocessed agricultural products are those that maintain their inherent character. This includes fresh fruits and vegetables, as well as items that have been frozen, peeled, cut, ground (including meat without any additives or preservatives) and processed in a similar way.
- This preference option applies to all of the federal Child Nutrition Programs that provide meals and snacks, including the National School Lunch Program, the School Breakfast Program, the Department of Defense Fresh Fruit and Vegetable Program, the Special Milk Program and the Summer Food Service Program.
- The preference may not “unnecessarily restrict free and open competition.” The USDA has interpreted this to mean that the option must leave an appropriate number of qualified firms, given the nature and size of the procurement, to compete for the contract.
- For purchases of less than \$100,000, schools are not required to go through the formal bid process, under the small purchase threshold. To ensure open competition, however, the USDA recommends that purchasing agents:
  - » Develop specifications in writing;
  - » Get quotes from at least three eligible sources; and
  - » Determine which is the most responsive and responsible bidder at the lowest price.

#### *USDA Child Nutrition Foods Programs*

- The Child Nutrition Foods Programs are administered by the USDA Food and Nutrition Service.
- Approximately 200 items are available each year, including meat, fruit, vegetables, grain and cheese products.
- In response to the Healthy, Hunger-Free Kids Act of 2010 (Public Law 111-296), which aimed to make school foods more nutritious, the USDA has made changes to the Foods Programs to reflect the dietary guidelines for Americans.
  - » The Foods Programs have increased the number of available canned, fresh, frozen and dried fruits and vegetables; added more whole grain options such as brown rice, whole wheat flour and whole grain pasta; use extra light sucrose syrup or slightly sweetened fruit juice in canned fruits; reduced sodium in canned beans and vegetables; and offer low-fat meat and lean poultry products, as well as fat-free potato wedges.<sup>93</sup>

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<sup>93</sup> *USDA Foods: Healthy Choices for Our Schools*, USDA 2 (May 2011), [http://www.fns.usda.gov/sites/default/files/USDAFoods\\_FactSheet\\_FINAL.pdf](http://www.fns.usda.gov/sites/default/files/USDAFoods_FactSheet_FINAL.pdf).

## APPENDIX N: BENEFICIAL REUSE OF ORGANICS

### **Composting**

#### ***Connecticut***

Connecticut includes composting facilities under the definition of “volume reduction plants” in Conn. Gen. Stat. § 22a-207(5), and they are subject to the state’s policies for solid waste management under the Regs, Conn. State Agencies §§ 22a-209-1 to 22a-209-17. These regulations apply to all composting facilities except those that compost only leaves, and they require that a composting facility have a solid waste permit to operate. Conn. Gen. Stat. § 22a-208q also requires the commissioner of energy and environmental protection to regulate both compost inputs by screening out hazardous chemicals and outputs by grading compost and designating uses for each grade.<sup>94</sup>

#### ***Maine***

Maine regulates composting both through general regulations applicable to all solid waste management facilities (06-096 C.M.R. ch. 400) and through detailed regulations applicable only to composting facilities (06-096 C.M.R. ch. 410). The composting regulations exempt small facilities (how small depends on the type of input used for composting), on-farm facilities that use leaves to compost manure and on-farm facilities that use 70 percent of the compost they produce on-site. A compost management plan approved by the Maine Department of Agriculture, Food and Rural Resources is required for on-farm composting facilities.<sup>95</sup>

#### ***Massachusetts***

Massachusetts regulates composting through site assignment regulations for solid waste facilities in 310 C.M.R. §§ 16.00-16.99. These regulations exempt small facilities — those that accept less than 20 cubic yards or 10 tons per week — and on-farm composting, provided that on-farm composting operations comply with the Department of Agricultural Resources’ regulations and guidance. Those regulations (330 C.M.R. §§ 25.00-25.06) establish a registration program and set basic standards, including a requirement that contaminants be screened from composting inputs.<sup>96</sup>

#### ***New Hampshire***

New Hampshire regulates composting through Composting Facility Requirements (N.H. Code Admin. R. Annotated ENV-SW 600). In general, a composting facility cannot operate without a permit. The composting regulations, however, exempt facilities that compost food scraps and animal manure generated on-site, including farms. For nonexempt composting facilities, the regulations establish rigorous screening requirements to ensure inputs are free from hazardous contaminants.<sup>97</sup>

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<sup>94</sup> For more information, go to <http://www.ct.gov/deep/cwp/view.asp?A=2709&Q=324200>.

<sup>95</sup> For more information, go to <http://www.state.me.us/dep/waste/residuals/index.html>.

<sup>96</sup> For more information, go to <http://www.mass.gov/eea/agencies/agr/about/divisions/agr-composting-program-generic.html>.

<sup>97</sup> For more information, go to <http://des.nh.gov/organization/divisions/waste/swmb/pdrs/index.htm>.

***Rhode Island***

Rhode Island includes composting facilities in its General Requirements for solid waste facilities in Solid Waste Reg. No. 1, and has specific rules for certain designated composting facilities in Solid Waste Reg. No. 8. Solid Waste Reg. No. 1 generally requires a license or registration in order to operate a composting facility. Agricultural composting facilities are exempt from paying certain fees required by the regulation but are otherwise subject to the regulations. Solid Waste Reg. No. 8 requires composting products to be tested, categorizes products by quality and contaminants, and limits the uses of lower-quality and contaminated compost.<sup>98</sup>

***Vermont***

Vermont's recent Solid Waste Management Rules include a subchapter titled Organics Management that establishes siting and operational requirements for composting facilities. Small composting facilities (how small depends on input), facilities composting only manure for soil enrichment, and several types of on-farm composting are exempt from these requirements. For composting facilities subject to the requirements, final composting products must meet certain criteria for contaminants.<sup>99</sup>

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<sup>98</sup> For more information, go to <http://www.dem.ri.gov/programs/benviron/waste/topicsol.htm>.

<sup>99</sup> For more information, go to <http://www.anr.state.vt.us/dec/wastediv/compost/main2.htm>.



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