



**Answers to Frequently
Asked Questions
About
Conservation Use
Valuation
&
Preferential Agricultural
Assessment**



A presentation of the most frequently asked questions and answers collected over the past several years for ad valorem tax issues in Georgia.

**Answers to Frequently Asked Questions about
Conservation Use Valuation
and
Agricultural Preferential Assessment**

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INTRODUCTION

Presently in Forsyth County there are approximately 689 Conservation Use Valuation and Preferential Agricultural Assessment covenants in use by agricultural and forestry landowners. These landowners earn almost \$3,806,700 annually in property tax benefits from these two tax programs as an alternative to fair market value (FMV).

Georgia Code Section 48-5-7.4 allows for up to 2,000 acres of real property of a single owner, the primary purpose of which is any good faith production, including but not limited to, subsistence farming or commercial production from or on the land of agricultural products or timber who meet certain criteria of ownership to enter into a ten-year covenant agreement.

Primary purpose is defined as "the principle use to which the property is devoted, as distinct from an incidental, occasional, intermediate or temporary use for some other purpose not detrimental to, or in conflict with its primary use."

This brochure contains a listing of questions and answers collected over the past several years dealing with these ad valorem tax issues. A careful reading of these contents will foster a better understanding among taxpayers of how these property tax programs work.

CONSERVATION USE VALUATION AND AGRICULTURAL PREFERENTIAL ASSESSMENT

Fair Market Value (FMV), Agricultural Preferential Assessment, and Conservation Use Valuation Assessment (CUVA): what are they and which is best for me as a Forsyth County landowner?

Fair Market Value (FMV) is defined as “the amount a knowledgeable buyer would pay for the property and a willing seller would accept for the property at an arm's length, bona fide sale.” (O.C.G.A. 48-5-2). Property owners who chose to accept FMV basis for their ad valorem taxes maintain a greater flexibility over the use of their land.

Agricultural Preferential Assessment: Bona fide agricultural property can be assessed at 75% of the assessment of other property. This means that this type of property is assessed at 30% of fair market value rather than 40%. Property that qualifies for this special assessment must be maintained in its current use for a period of ten years. Property owners who are approved for Preferential Assessment generally see a 25% tax advantage over the Fair Market Value.

Conservation Use Property: Bona fide agricultural property can be assessed at its current use value rather than the fair market value. Property that qualifies for this special assessment must be maintained in its current use for a period of ten years. Property owners who are approved for Conservation can see significant savings, sometimes greater than 50% over the Fair Market Value.

Why should I be interested in Conservation Use Valuation for ad valorem taxation?

All landowners who qualify for Conservation Use Valuation are entitled to have their land valued according to its current use (agriculture, forestry, or environmentally sensitive) instead of the Fair Market Value for ad valorem taxation. This can reap large tax benefits. Another benefit of CUVA is that the value changes are limited to +/- 3% a year or a total of +/- 34.39% over the life of the 10-year covenant.

Why should I be interested in Agricultural Preferential Assessment?

All landowners who qualify for Agricultural Preferential Assessment are entitled to have their property valued for assessment at 75% of FMV for ad valorem taxation. In most cases, 25% tax savings will be realized with Agricultural Preferential Assessment. However, Agricultural Preferential Assessment values change as fast as FMV changes and offer no degree of certainty on the property tax burden.

If Conservation Use Valuation offers large savings and appears to be more stable, why would I consider Agricultural Preferential Assessment?

Agricultural Preferential Assessment applies to all land and up to \$100,000 dollars in building value on agricultural production and storage buildings. Conservation Use Valuation applies only to land values and a limitation of 3% increase per year on farm buildings. A taxpayer that has a small amount of land with a good number of agricultural buildings, such as chicken farming, may receive greater benefits under Agricultural Preferential Assessment.

Who is eligible for Conservation Use Valuation and/or Agricultural Preferential Assessment?

- Natural or Naturalized U. S. Citizens
- Family Farm Corporations who earn at least 80% of their income from farming
- Non-profit conservation organizations
- Estates and Trust may be eligible

What are the allowable uses for a property to be eligible for conservation use valuation?

The land uses required for Conservation Use Valuation are good faith agricultural/forest production and environmentally sensitive land including, but not limited to:

- Raising, harvesting, or storing crops
- Feeding, breeding, or managing livestock or poultry
- Producing plants, trees, fowl, or animals
- Production of aquaculture, horticulture, floriculture, dairy, livestock, poultry, and apiarian products

How much land can enter Conservation Use Valuation and/or Agricultural Preferential Assessment?

Georgia Code Section 48-5-7.4 allows up to 2,000 acres to be entered into CUVA. At the same time, up to 2,000 other acres in Georgia may be entered into Preferential Assessment.

Presently, there is no minimum acreage for CUVA, **however**, landowners with less than 10 acres **must** supply additional documentation that the primary use of the property is for bona fide agricultural/timber production purposes. Documentation can include, but not limited to:

- Federal Income Tax Schedule “F”
- Timber Management Plans
- Receipts of sale from hay, livestock, produce, etc.
- Receipts for purchase of feed, fertilizers, seed, equipment, etc.
- Any documentation that will assist the Board in determining the qualifying use

For properties over 10 acres, no documentation is required as eligibility will be determined from an on-site inspection of the property. If you would like to submit documentation you may do so.

For properties that have a residence, 1 acre is excluded from the total acres which can be the determining factor if documentation must be provided.

How many Conservation Use Covenants can I have? Does all my land have to be in the same county?

You may have a separate covenant for each legally definable tract of land you own. No one covenant can cross county lines or state boundaries. Separate covenants can be held in separate Georgia counties. Tract means a parcel of property with boundaries designated by the Board of Assessors to facilitate proper identification of the property on their maps and records.

When, Where, and How do I sign up for these programs?

WHEN: The earliest anyone may apply for CUVA or Preferential Assessment is January 2 of each year. The filing time runs from January 2 until April 1.

In addition, once annual assessment notices are mailed out (usually mid-to-late May) property owners will have a 45-day day window to apply for **CUVA only** in lieu of or in conjuncture with an appeal.

WHERE & HOW: Forms and details are available at the Forsyth County Tax Assessors Office. You can come by and pick one up, have one mailed or emailed to you upon request, or schedule an appointment to have the paperwork filled out in office.

The Board of Assessors requires the following when submitting your application:

- Application must be signed by all landowners
- Application must be notarized*
- Applicant must designate on tax map the exact parcel and acreage being placed in covenant
- Applications for less than 10 acres **must** be accompanied by additional proof of agricultural or forestry use

You enter a 10-year covenant with the County whereby you agree to continue your property in agricultural or forestry production.

**Notaries are available in the Tax Assessor's office for those who schedule appoints to have their paperwork filled out*

What happens if I want to get out of CUVA before the 10-year period is up?

To get out of CUVA early you must pay a tax penalty equal to twice the tax savings enjoyed to-date, plus interest. This is considered a "Breach".

However, there are four conditions under which you can end a covenant with no penalty or a one-year penalty (where taxes revert to normal FMV taxes for the specific tax year you are in):

- If you or any party of the covenant dies (**no penalty**)
- If any of your property is taken or conveyed to a party with power of eminent domain (**no penalty**)
- You become medically unable to continue caring for your property (**one-year penalty**)
- Your land is taken from you through foreclosure (**one year penalty**)

In addition:

- Property owners who are 65 or older and are in their third year of a Renewal Covenant may elect to breach their Covenant upon written request and qualify for a **one-year penalty**.
- Property owners who enter a covenant for the **First Time after reaching age of 67** and the property has been family owned for a minimum of 15 years may elect to breach their Covenant upon written request and qualify for a **one-year penalty**.
- Property owners in a **renewal covenant** who wish to breach during the 6th-10th year will only be responsible for **paying back the original savings** for each year in CUVA beginning with year 1 of the renewal.

The last paragraph mentioned a “breach”. What exactly is a breach and how are the penalties calculated?

While it sounds terrifying, breaching a covenant can be more difficult than it sounds. Examples of breaching a covenant can include, but are not limited to:

- Selling parts of or all the land without notifying the Board of Assessors
- Selling the land to a developer
- Selling the land to someone who would not qualify for Preferential Assessment and/or Conservation Use
- Not using the land as stated in the application
- Changing usage without notifying the Board of Assessors

Please Note: Breaching a CUVA covenant will result in a penalty that applies to the entire tract that is placed under an original covenant, even if the breach occurred on only a small portion of the tract under covenant.

A 30-day notice will be given in writing to the property owner(s) to correct what is needed. After 30 days, a field inspection will be conducted to confirm whether corrective action was taken or not.

For **CUVA**, penalties are **twice the amount saved** for each year in CUVA beginning with the most recent year entered and up to the current year (i.e., CUVA entered in 2022 was breached in 2025; penalties will be for years 2022, 2023, 2024, and 2025).

For example: If 2022 FMV taxes are \$10,000 and 2022 CUVA taxes are \$1,000, the **amount saved** would be \$9,000. You then **double the amount saved** (\$9,000 x 2) to get your penalty amount for tax year 2022 (\$18,000). You then repeat the process for each year in CUVA.

Penalties for Preferential Assessment are assessed as the tax benefits enjoyed during only the year of the breach, times a factor of:

- 5 if breached during the 1st or 2nd year
- 4 if breached during the 3rd or 4th year
- 3 if breached during the 5th or 6th year
- 2 if breached during the 7th, 8th, 9th or 10th year

Are there any other uses that may occur on my property that is under a covenant that would not constitute a breach of the covenant?

Yes, the follow list are additional uses that you can use the property for that would not cause a breach of covenant:

- Agritourism: admission can be charged for persons to visit, view, and/or participate in the operations of a farm or dairy production for entertainment or educational purposes; you may also sell farm and/or dairy products to visitors that are produced on site.
- Corn Mazes: You may construct and charge admission for corn mazes; once the season is over, the corn must be harvested.
- Fishing/Hunting: You may charge admission fees for the purpose of fishing or hunting on the property.
- Mineral Exploration: provided it does not interfere with the primary agricultural purpose, mineral exploration is allowed.
- Farm Weddings: if your covenant has been in effect for at least one (1) year and does not interfere with the primary agricultural purpose, the property can be used as a site for farm weddings.

- Equestrian performance events (not-for-profit): if your covenant has been in effect for at least one (1) year and does not interfere with the primary agricultural purpose, the property can be used as a site for equestrian performance events where no admission fee is charged. The equestrian events may charge an entry fee for the participants.

When considering any of these options, you should bear in mind that you cannot build new buildings for the purposes above and operate a commercial business that offers other services other than the use of the land and existing building. We advise that before you pursue farm weddings and other events, you contact the assessor's office to discuss your plans to avoid a possible penalty.

I want to change my agricultural/forestry use during the 10-year period, can I do so without breaching my covenant?

Yes, you can change among good faith production of agriculture or forestry crops if you notify the County Board of Assessors in writing of the intended use change. Failure to notify constitutes a breach of the covenant with penalties as described.

Can I sell land under CUVA without breaching it?

CUVA land can be sold; however, to prevent a breach, the buyers must sign a continuance the year following the sale (between January 2 and April 1) and agree to maintain the use the original covenant holder had or a different use that still falls under agricultural/timber. Failure to do so can result in a breach with penalties for both parties* (the original covenant holder and the new owner).

**Please Note: When selling land under covenant, it may be wise to have your attorney include documentation at closing requiring the new owner to continue land use under provisions of the original covenant, or if a breach is occurring who will be responsible to the penalty.*

You may also convey up to 25 acres to a place of religious worship or burial or an institution of purely public charity if such place is eligible to receive exempt status under 48-5-41, and the property must be used for said exempt purpose.

Can I rent or lease Preferential Assessment or CUVA Property?

Yes, you can rent out Preferential Assessment and/or CUVA property for hunting, pine straw harvest, agricultural/tree crop production, and/or other qualifying uses. *Please note that anyone who leases land must otherwise qualify for the program.*

What if I want to change between Agricultural Preferential Assessment and Conservation Use Valuation?

There is no apparent time limit set by Georgia law on when you can change from an existing Agricultural Preferential Assessment covenant to a Conservation Use covenant. However, you can change from Preferential Assessment to Conservation Use, for a particular covenant, only once.

You cannot change from an existing Conservation Use covenant to a new Agricultural Preferential Assessment covenant except at the end of the Conservation Use agreement. I have a family member asking me to deed them land to build a house. Will this breach my CUVA?

The law does allow the original covenant holder to deed family members which are related to the original covenant holder, at least to the fourth degree of civil reckoning, to build a home and live on the land (up to 5 acres) currently enrolled in a CUVA covenant without penalty during the life of the original covenant.

After the transfer of property under covenant to the family member, the family member has one year to begin construction. Once construction starts, the home must be built and occupied by the family member within two years and must remain so for the duration of the original covenant. This property owner will be required to sign a continuance and will not receive the exemption but does remain subject to the conditions of the original covenant. This means it cannot be sold outside of the family until the covenant ends.

What happens if the original covenant holder dies during the life of the covenant?

If the original covenant holder dies before the Conservation Use or Agricultural Preferential covenant expires, the heirs of the property have 2 options: (1) allow the covenant ends without penalty, or (2) sign a continuance to continue the remainder of the covenant. The heirs are required to come to the Tax Assessors office during the next filing period (Between January 2 and April 1) and file a continuance application if they desire to continue. If no contact is made between January 2 and April 1, then the exemption will be removed for that year.

What happens if the original covenant holder cannot carry out the requirements of the covenant due to medical reasons?

Depending on the circumstances, the property owner could get a medical release. This requires the property owner to get two letters from two different physicians stating they are no longer able to care for the property and should be released from the covenant. Please note that, if released medically, the property owner will no longer be eligible for CUVA or Preferential Assessment state-wide.

I live on the land. Does that impact Preferential Assessment or CUVA?

For *Agricultural Preferential*, Georgia law states that the land underlying the house is a part of the covenant. However, the value of the house is excluded.

For *Conservation Use*, such property excludes the entire value of any residence and its underlying property. The term "underlying property" means the minimum lot size required for residential construction by local zoning ordinances or two acres, whichever is less.

Since the house and underlying property are not part of CUVA, can I sell or rent it without breaching my covenant?

You can rent out and/or sell a house located on CUVA land and its underlying property as it is not subject to the covenant.

What happens if my spouse and I jointly own property entered in a Conservation Use Covenant and we divorce during the covenant period with one of us gaining the deed to the property?

The Department of Revenue's Rules and Regulations state that when there is a change in ownership of property receiving current use assessment, the new owner must apply for a continuation of the covenant. This application must be made on or before the deadline for filing returns, which is April 1 of the following year.

In the event of a divorce, the original parties to the covenant remain liable for any breach of the covenant. Responsibility for penalties due to a covenant breach should be specified in divorce decrees, contracts, etc.

What happens if the County or State wants some of my land for right-of-way?

When a public body (government) acquires the land through eminent domain, the covenant ends. You may be entitled to sign up again, if you choose, but it will start a new 10-year covenant. Property that is either given or sold to state and county governments, schools and power companies are also included in this group.

I only want to put a portion of my land into a current use covenant as I'm thinking of developing part of it down the road. Is that an option? If so, what documentation do I need to do that?

If you want to enroll only a portion of your land, it is possible. You will need to create a new legal description to separate the tracts. This can be done by deed or by survey.

For example, if you own 100 acres and feel you may want to develop or sell a portion during the 10-year covenant period, you will be required to submit a legal description to the Board of any property that will not be included in the covenant.

The law for Current Use Valuation says something about at least 50% of the property must be in the qualifying use. *What does this mean for the other 50% of the property? Can smaller portions be in other uses as long as at least 50% is maintained in the qualifying use?*

The law states that no other type of business may be operated on the unused portion.

In addition, the unused portion must be minimally managed to prevent significant erosion or other environmental problems. If you have questions about your specific case, check with the Tax Assessors Office before you change use of any portions of your covenant lands.

How much is my land worth under the Conservation Use covenant? Who decides what it is worth? How is a particular piece of land given a value?

Conservation Use land value is based on its use, location, and soil productivity. Annually the Georgia Department of Revenue publishes a table of values for all Conservation Use land in Georgia. The table of values is available at the Forsyth County Property Evaluation Office, University of Georgia Cooperative Extension Service County Office, the Georgia Forestry Association, Georgia Farm Bureau Federation, and the Georgia Forestry Commission.

Once your application has been approved, the acreage of your parcel is broken down by soil classification. The soil types are then costed against the table provided by the Department of Revenue and totaled for a new Conservation Use value.

While my land is in a Conservation Use covenant, how do I keep up with its Fair Market Value (FMV)?

The Tax Assessors Office will continue to annually notify the taxpayer of any changes to the Fair Market Value of the covenanted property. Remember the difference between Fair Market Value and Conservation Use value is the basis for calculating any penalty. So, pay careful attention each year to the Fair Market Value of your land, even while in a protective covenant.

What happens if I want to divide my property for estate planning purposes, and deed off portions while I am in the covenant?

If you do not change the use of the property, each party may be eligible to file for continuance of the original covenant. It would be wise to discuss this with the Tax Assessors office to make sure that the division will be done in a manner that would not breach the covenant.

The Board of Assessors should be consulted before building any improvements on property divided for estate planning purposes.

If I purchase additional property that joins my farm, can that acreage be added to my existing covenant?

If you purchase property that abuts, joins, or touches the tract and has the same undivided common ownership, you may add up to 50 acres to an existing covenant for the remainder of the covenant.

If I choose to place my property into a LC, LLC, LP, LLLP, Family Farm Corporation, etc., for estate planning purposes or other income tax purposes, how will this affect my covenant?

If property is placed in any of the above, there are specific requirements under the law. The partnership or family farm corporation MUST derive 80% of its income from bona fide agricultural production purposes within this state. It may NOT receive more than 20% of its income from other non-related agricultural purposes, such as dividends on stocks and bonds other non-agricultural investments, rental income, etc. The corporation or partnership may also be “land holding” with no income.

All parties of the partnership or corporation must be related to each other within the fourth degree of civil reckoning, except that there is an allowance for a non-related 5% ownership for management purposes.

The Forsyth County Board of Assessors will require the following along with your application under these circumstances:

- Copy of your certificate of corporation filed with the Secretary of State
- Copy of the income tax return for the partnership or corporation
- An affidavit that the parties are related to each other in accordance with the law

What happens if I divide my property or sell it, and the new owners do not come in and file for a continuance covenant?

The Board of Assessors will send both the transferee and the transferor a notice of the Board’s intent to assess a penalty for the breach of the covenant. The notice, entitled “Notice of Intent to Assess Penalty for Breach of a Conservation Use Covenant,” will contain the following information:

- The requirements of the new property owner to apply for a continuation of the current use assessment within 30 days of the date of postmark of the notice
- The change to the assessment, if the covenant is breached
- The amount of the penalty if breached

After I submit my application, what will the Board of Assessors look at to determine if I qualify?

The Board will review the current use of the property. An appraiser from the Tax Assessors Office will perform an on-site inspection of the property and prepare a report for the Board of Assessors.

You should submit any documentation you have regarding the bona fide conservation use of the property. Examples would be:

- Federal Income Tax Schedule “F”, “E”, or Form 4835
- Timber Management Plans
- Receipts of sale of hay, livestock, produce, etc.
- Receipts for purchase of feed, fertilizers, seed, equipment, etc.
- Any documentation that will assist the Board in determining the qualifying use.

At the end of my ten-year covenant, will my CUVA or Preferential Assessment automatically renew? If not, will I be notified?

CUVA and Preferential Assessment **DO NOT** automatically renew at the end of the ten-year period. The Tax Assessors office will send you notification at least 60 days prior to the expiration date of the covenant that your covenant is about to expire in addition to the release form at the.

You **must** submit a new application for another 10-year covenant if you wish for the exemption to continue.

If you apply and are approved for a second, third, etc. 10-year period, this approval is considered a RENEWAL COVENANT.

If I had the exemption before, I should automatically qualify again, right?

Not necessarily. Ten years is a long period, and many changes can occur.

During the first 10 years since the covenant was originally placed into law in 1992, there have been changes made to the law, changes to the state regulations, and changes due to court cases that clarify the law. These changes included making it more difficult for smaller tracts to enter into these covenants, clarification of the type of income allowed (no, non-agricultural related rental income) and clarification of the definition of primary use of the property.

There may have been changes in ownership, changes in use, and/or other factors that need to be reviewed.

Is there a fee to apply for Conservation?

No, there is no cost to apply for Conservation. However, once the application is approved, there is a one-time **\$25 filing fee** per application to record said application with the Clerk of Court.

When/how will I receive notification if my property was approved or denied?

You will be notified of the Board of Tax Assessor’s decision on your property by USPS mail. It can take anywhere from 4 to 8 weeks before a decision is made and you are notified. If you have any questions about the status of your property, you can always contact the Tax Assessor’s office and request an update.

My Conservation/Preferential Assessment was APPROVED, what's next?

Once your application is approved, you will receive a letter of approval from the Board of Tax Assessors. A one-time \$25 filing fee (per application) will need to be paid to record the application with the Forsyth County Clerk of Court's office.

In addition, the property will be inspected periodically to confirm that it is maintaining the agricultural use(s) as stated in the application.

My application was DENIED. Can I appeal this?

If your application is denied, you may appeal the decision of the Board of Tax Assessors. This must be done, in writing, within 45 days of receiving your denial letter. Your appeal will then be forwarded to the Board of Equalization for a hearing.

Please note that the Board of Equalization does not begin hearing appeals until late September/early October. You will be notified of your hearing date/time via USPS mail with information on how to reschedule if needed.

Is there somewhere I can look up and see the laws regarding Conservation Use Valuation and/or Agricultural Preferential Assessment?

The laws for CUVA and Preferential Assessment can be found in the Official Code of Georgia Annotated (O.C.G.A) § 48-5-7.4. A brief overview has been provided at the end of this brochure.

If I have questions, who can I contact for answers?

Any time you have questions regarding CUVA, Preferential Assessment, and/or other specialized assessments, you can contact one of the following persons at the Forsyth County Tax Assessor's Office:

Kale Martin, Specialized Assessment Appraiser
770-781-2106 ext. 2654
kamartin@forsythco.com

Trassa Quarles, Secretary, Board of Tax Assessors
770-781-2106 ext. 2618

Joel Benton, Chief Appraiser
770-781-2106 ext. 2617

For Further Information Contact:

The Forsyth County Board of Tax Assessors Office

Monday – Friday

8:30 a.m. – 5:00 p.m.

770-781-2106 (phone)

678-455-8493 (fax)

boardofassessors@forsythco.com (email)

§ 48-5-7.4. Bona fide conservation use property; residential transitional property; application procedures; penalties for breach of covenant; classification on tax digest; annual report

(a) For purposes of this article, the term "bona fide conservation use property" means property described in and meeting the requirements of paragraph (1) or (2) of this subsection, as follows:

(1) Not more than 2,000 acres of tangible real property of a single person, the primary purpose of which is any good faith production, including but not limited to subsistence farming or commercial production, from or on the land of agricultural products or timber, subject to the following qualifications:

(A) Such property includes the value of tangible property permanently affixed to the real property which is directly connected to such owner's production of agricultural products or timber and which is devoted to the storage and processing of such agricultural products or timber from or on such real property;

(A.1) In the application of the limitation contained in the introductory language of this paragraph, the following rules shall apply to determine beneficial interests in bona fide conservation use property held in a family owned farm entity as described in division (1)(C)(iv) of this subsection:

(i) A person who owns an interest in a family owned farm entity as described in division (1)(C)(iv) of this subsection shall be considered to own only the percent of the bona fide conservation use property held by such family owned farm entity that is equal to the percent interest owned by such person in such family owned farm entity; and

(ii) A person who owns an interest in a family owned farm entity as described in division (1)(C)(iv) of this subsection may elect to allocate the lesser of any unused portion of such person's 2,000 acre limitation or the product of such person's percent interest in the family owned farm entity times the total number of acres owned by the family owned farm entity subject to such bona fide conservation use assessment, with the result that the family owned farm entity may receive bona fide conservation use assessment on more than 2,000 acres;

(B) Such property excludes the entire value of any residence and its underlying property; as used in this subparagraph, the term "underlying property" means the minimum lot size required for residential construction by local zoning ordinances or two acres, whichever is less. The board of tax assessors shall not require a recorded plat or survey to set the boundaries of the underlying property. This provision for excluding the underlying property of a residence from eligibility in the conservation use covenant shall only apply to property that is first made subject to a covenant or is subject to the renewal of a previous covenant on or after May 1, 2012;

(C) Except as otherwise provided in division (vii) of this subparagraph, such property must be owned by:

(i) One or more natural or naturalized citizens;

(ii) An estate of which the devisees or heirs are one or more natural or naturalized citizens;

(iii) A trust of which the beneficiaries are one or more natural or naturalized citizens;

(iv) A family owned farm entity, such as a family corporation, a family partnership, a family general partnership, a family limited partnership, a family limited corporation, or a family limited liability company, all of the interest of which is owned by one or more natural or naturalized citizens related to each other by blood or marriage within the fourth degree of civil reckoning, except that, solely with respect to a family limited partnership, a corporation, limited partnership, limited corporation, or

limited liability company may serve as a general partner of the family limited partnership and hold no more than a 5 percent interest in such family limited partnership, an estate of which the devisees or heirs are one or more natural or naturalized citizens, a trust of which the beneficiaries are one or more natural or naturalized citizens, or an entity created by the merger or consolidation of two or more entities which independently qualify as a family owned farm entity, and which family owned farm entity derived 80 percent or more of its gross income from bona fide conservation uses, including earnings on investments directly related to past or future bona fide conservation uses, within this state within the year immediately preceding the year in which

eligibility is sought; provided, however, that in the case of a newly formed family farm entity, an estimate of the income of such entity may be used to determine its eligibility;

(v) A bona fide nonprofit organization designated under Section 501(c)(3) of the Internal Revenue Code;

(vi) A bona fide club organized for pleasure, recreation, and other non-profitable purposes; or

(vii) In the case of constructed storm-water wetlands, any person may own such property;

(D) Factors which may be considered in determining if such property is qualified may include, but not be limited to:

(i) The nature of the terrain;

(ii) The density of the marketable product on the land;

(iii) The past usage of the land;

(iv) The economic merchantability of the agricultural product; and

(v) The utilization or nonutilization of recognized care, cultivation, harvesting, and like practices applicable to the product involved and any implemented plans thereof;