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# Farmland Preservation Policies in the United States: Successes and Shortcomings

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# Farmland Preservation Policies in the United States: Successes and Shortcomings

## **Abstract**

America's experience with farmland preservation is a combination of modest success and inconsistent farm policies. The successes--in terms of farmland acres preserved--have been concentrated in a relatively small number of counties, mainly in the Northeast and in California (see Sokolow and Zurbrugg, 2003). But nationwide there is a split between the farm income-oriented policies of the US federal government and the land use and growth management policies of state and local governments. Even though the federal government has recently implemented a farmland preservation grant program, land use planning in America is largely controlled by local governments. Getting the local governments--townships in the Northeast and Midwest, and counties in the rest of the nation--to coordinate their land use planning and farmland preservation efforts has often been a frustrating experience. Targeting federal funds to important agricultural regions has not been fully realized.

## **Comments**

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Farmland Preservation Policies in the United States: Successes and  
Shortcomings

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## Introduction

America's experience with farmland preservation is a combination of modest success and inconsistent farm policies. The successes--in terms of farmland acres preserved--have been concentrated in a relatively small number of counties, mainly in the Northeast and in California (see Sokolow and Zurbrugg, 2003). But nationwide there is a split between the farm income-oriented policies of the US federal government and the land use and growth management policies of state and local governments. Even though the federal government has recently implemented a farmland preservation grant program, land use planning in America is largely controlled by local governments. Getting the local governments--townships in the Northeast and Midwest, and counties in the rest of the nation--to coordinate their land use planning and farmland preservation efforts has often been a frustrating experience. Targeting federal funds to important agricultural regions has not been fully realized.

Farmers and ranchers own most of America's privately-held land, about 939 million acres according to the 2002 U.S. Census of Agriculture. The average age of farmland owners is 55 years old. This means that within the next two decades, tens of millions of acres will change hands. What

heirs and buyers of that land decide to do with it will have profound consequences for communities all across the United States.

The 2002 Census of Agriculture counted 2.1 million farms, with a farm defined as producing at least \$1,000 a year in agricultural commodities. But more than half of all U.S. farms produce less than \$10,000 a year (see Figure 1). Meanwhile, medium-size family farms are declining in numbers while the number of large commercial farms is increasing. In fact, the top 200,000 farms produce most of America's farm output.

Figure 1 here

Farms and farmland are not evenly distributed across the United States (see Figure 2). If the U.S. is divided into four regions, the North Central region has the greatest amount of farmland, but the South has the most farms. The West has California, the leading farm state, and the Northeast accounts for only a small fraction of farms and farmland. In addition, most of the large farms and ranches are located west of the Mississippi River (see Figure 3).

Figure 2 here

Figure 3 here

American farmers and ranchers face three main challenges: 1) profitability; 2) passing the farm to the next generation; and 3) resisting the temptation to sell land for development—especially in metropolitan regions where the value of farmland for raising crops and livestock is far less than the land's value for house lots and commercial sites. Farmland preservation can help farmers and ranchers by providing need capital to strengthen the farm operation, facilitate the transfer of the farm or ranch to the next generation, and continue to resist the sale of land for development.

#### What is Farmland Preservation?

It is important to make the distinction between farmland preservation and farmland protection. Farmland preservation is strictly voluntary, involving the sale or donation of a perpetual conservation easement by a willing landowner to a government agency or to a qualified private, non-profit land trust. Farmland preservation relies on a legally binding contract to “preserve” land for farming

uses. A Deed of Easement describing the restrictions on the use of the land--basically limiting the land to farming-related uses--is signed by both the landowner and the government agency or a private nonprofit land trust and is recorded at the local county courthouse. The Deed of Easement runs with the land, so that the land use restrictions apply to all future landowners.

It is possible to overturn a perpetual conservation easement in two ways. First, a government agency can use its power of eminent domain to condemn land under a conservation easement for a public purpose. For instance, if a state highway department needed to construct a public road through preserved farmland, the highway department could condemn the land, pay the landowner a court-determined sum of money known as "just compensation", take ownership of the land, and build the road. Second, if the government agency or private land trust that holds a Deed of Easement does not monitor the preserved farmland, the landowner could appeal to a court to have the conservation easement overturned. The holder of a conservation easement has the responsibility to monitor the property--usually visiting the property at least once a year--and to enforce the terms of the conservation easement. If the easement holder does not perform these duties, a judge could rule

that the holder does not care about the conservation easement and it is no longer valid.

Farmland protection techniques are not permanent, but can play an important complementary role to farmland preservation. Farmland protection techniques include: use-value property taxation of farmland, low-density agricultural zoning, urban growth boundaries, right-to-farm laws, agricultural districts, and a governor's executive order to direct state infrastructure projects away from farmland (See Daniels and Bowers, 1997). All of these protection techniques can be changed by an act of the state legislature or local government. They are political decisions, and hence are vulnerable to changes in office holders and policy makers.

#### The Origins and Goals of Farmland Preservation in America

Farmland preservation in the United States is relatively new. The first farmland preservation program arose in Suffolk County, New York (the eastern end of Long Island) in the mid-1970s. In 1977, the State of Maryland created the first statewide funding program for the purchase of conservation easements to farmland. Several states and a number of local governments followed. Today, farmland preservation programs exist in 25 states and more



than 150 local governments (see [www.farmlandinfo.org](http://www.farmlandinfo.org)). More than 2 million acres of farmland have been preserved through the purchase and donation of conservation easements. State and local governments and the federal government have spent more than \$1.5 billion to preserve farmland (Farm Foundation, 2004). Private land trusts have been active in preserving farmland as well.

The goals of farmland preservation vary somewhat from place to place. Yet, common goals are: 1) a desire to curb sprawling development in the countryside which drives up the price of farmland beyond what farmers can afford, forces up property taxes as new residents demand more services (especially schools), and brings in non-farm residents who complain about the noise, dust, and odors of neighboring farm operations; 2) a desire to protect high quality agricultural soils and maintain agriculture as part of the local economy; 3) a desire to manage growth, both in terms of location and cost; 4) a desire to maintain the open space and scenic vistas that farming provides; and 5) a desire for locally-grown produce.

A payment of money by a government agency or land trust for a conservation easement can help achieve the above five goals as follows. First, the farmer has the option to sell a conservation easement and thus raise cash

without having to sell land for development. The farmer can use the money to set up a retirement fund, re-invest in the farm operation, send children to college, or pay down debts. After the conservation easement is sold, the farmland is restricted to farm use, but still has value as farmland. Moreover, the value of the preserved farmland will be more affordable to other farmers after the conservation easement has been sold. The more farmland that is preserved in an area, the less non-farm residents there are likely to be and thus fewer land use conflicts. This strengthens the business climate for farming and encourages farmers to re-invest in their operations.

Second, highly productive agricultural soils are a valuable natural resource, and are essential for successful farming. Agriculture is a big industry in the United States. In 2000, American farmers produced \$194 billion in food and fiber (US Bureau of the Census 2003). Farming is a business, not just "a way of life," and often an important part of a local economy. Farmers pay local taxes, employ workers, and buy inputs locally. The purchase of a conservation easement puts money in the farmer's pocket, and studies have shown that most farmers use the easement payment to re-invest in the farm operation. Easement payments usually involve a substantial amount of money, and thus help with

agricultural economic development. For instance, a typical easement payment in Lancaster County, Pennsylvania is about \$2,500 per acre. Thus, the sale of a conservation easement on a 100-acre farm would return \$250,000 to the landowner. As more land is preserved over time, ideally, enough farmland can be preserved to maintain a "critical mass" of farms and farmland. This critical mass will enable the farm support businesses--machinery, feed, hardware, transportation, and processing--to remain profitable and in operation, and will help to sustain the overall farming industry.

Third, the American Farmland Trust has done many studies on the Cost of Community Services (see [www.farmland.org](http://www.farmland.org)). In every case, the studies show that farmland generates more revenue in property taxes than it demands in public services. Conversely, residential development on average demands more in public services than it generates in property taxes. Hence, farmland preservation is a good fiscal strategy in the long run. In addition, preserving farmland in the right areas can channel development toward areas where the development can be serviced by existing infrastructure or little additional infrastructure investment.

Fourth, the general public has little understanding of modern farming. But people do enjoy the open space and scenic views that farming offers. The public is often drawn to preserving farmland for its scenic qualities.

Fifth, food production for local markets may or may not occur with farmland preservation, depending on what the farmers produce. While the possibility of fresh fruits, vegetables, and meats is attractive, this is often the least cited and least realized reason for farmland preservation.

#### State Farmland Preservation Programs

There are two main types of state-level farmland preservation programs. In the larger states, such as Pennsylvania and Maryland, the state makes grants to counties which provide funds to match the state grants. In the smaller states, such as Vermont, Massachusetts, and Delaware, the state department of agriculture preserves farmland directly with the individual landowners.

#### Successes

A state government has far greater financial resources than a local county or township government. Several states have raised funds through the sale of bonds, and

Pennsylvania has even adopted a special tax on cigarettes with the revenues dedicated to the state farmland preservation program.

Pennsylvania leads the nation with nearly 300,000 acres of preserved farmland and more than 2,500 preserved farms. This was accomplished over a 15-year period, from 1989 to 2004. In addition, Pennsylvania landowners who sell a conservation easement are required to have a soil and water conservation plan on the property at the time of sale and to update the plan every 10 years. Maryland has used its farmland preservation program as an important element in its Smart Growth effort. By preserving more than 200,000 acres of rural land, the farmland preservation program has reduced sprawl and promoted more compact development (Daniels 2000). Vermont, Colorado, and New Jersey have each preserved more than 100,000 acres, but Vermont has concentrated its preservation in its two leading agricultural counties, Addison and Franklin, which have more than 70,000 acres of preserved farmland. In addition, the State of Vermont's Housing and Conservation Board has worked closely with the private Vermont Land Trust on many farmland preservation projects. This kind of public-private partnership has enabled more funds to be brought to bear on specific projects and has enabled the State of Vermont to

turn over most of the monitoring of conservation easements to the Vermont Land Trust.

Table 1. Leading US States in Farmland Preservation, 2004.

| <u>State</u> | <u>Acres</u><br><u>Preserved</u> | <u>Total</u><br><u>Cost</u> | <u>Value of Farm</u><br><u>Production</u><br><u>(1997)</u> |
|--------------|----------------------------------|-----------------------------|--|
| Pennsylvania | 278,000                          | \$500 million               | \$4 billion  |
| Maryland     | 225,000                          | \$300 million               | \$1.3 billion  |
| Colorado     | 142,000                          | \$40.5 million              | \$4.5 billion  |
| New Jersey   | 120,000                          | \$266 million               | \$.7 billion   |
| Vermont      | 110,000                          | \$45 million                | \$.5 billion   |
| Delaware     | 77,000                           | \$70 million                | \$.7 billion   |

Source: Deborah Bowers, Farmland Preservation Report, June 2004.

### Shortcomings

The effectiveness of state level farmland preservation programs varies considerably. Some states, such as Maine, New Hampshire, and Rhode Island have made only token efforts at farmland preservation. Other states, such as Florida and Washington, have preservation programs on the books, but have never provided funding to enact them. On the other hand, major agricultural states in the Midwest have been slow to create farmland preservation programs.

Both Michigan (1997) and Ohio (1998) have formed programs but have not adequately funded them, and have each preserved fewer than 20,000 acres. In both states the number of applicants and farmland acres offered for preservation greatly exceeds the amount of funding available. California, America's leading agricultural state with \$23 billion in farm output in 1997, has a small farmland preservation program, which has been rendered largely inactive by the state's budget problems. Even so, California has preserved very little land in its Central Valley which is the source of most of the fruits and vegetables grown in the United States. Simply put, in most states farmland preservation has not been made a high priority for public policy.

#### Local Farmland Preservation Programs

Local farmland preservation programs are most likely to succeed when they are able to supplement local funding with state and federal funding sources.

#### Successes

The leading local farmland preservation programs share a number of key features (see Table 2). First, they have an agricultural industry that is worth preserving. At the

county level, this usually means an annual value of gross farm output of at least \$50 million (Daniels 2004). By contrast, many suburban counties have little farming left and farmland preservation in these places is geared toward the preservation of open space and some "rural character." Second, successful counties have adopted agricultural zoning ordinances that allow no more than one dwelling per 25 acres. These counties have done careful land use planning, indicating where development should or should not go. In short, protecting the farmland base has driven the county's overall land use planning effort.

Table 2. Leading US Counties in Farmland Preservation, 2004.

| County         | Acres Preserved | Growth Boundary | Agricultural Zoning  |
|----------------|-----------------|-----------------|----------------------|
| Baltimore, MD  | 40,000          | Single          | 1 house per 50 acres |
| Lancaster, PA  | 59,000          | Several         | 1 house per 25 acres |
| Marin, CA      | 35,500          | Single          | 1 house per 60 acres |
| Montgomery, MD | 60,000          | Single          | 1 house per 25 acres |



Sonoma, CA                    45,000                    Several                    Varies

Source: Deborah Bowers, Farmland Preservation Report, June 2004.

Third, successful counties have put in place Urban Growth Boundaries to promote more compact development and to limit the extension of sewer and water lines and schools into the countryside. A growth boundary is supposed to contain enough buildable land to accommodate projected growth over the next 20 years. Although a boundary may be expanded, protected and even preserved farmland just outside the boundary helps to re-enforce the boundary. Some counties use a single boundary and others use multiple boundaries. It is interesting to note that Avin and Bayer identified some 150 growth boundaries and urban service areas in the United States (Avin and Bayer, 2003). Fourth, successful counties have preserved more than 30,000 acres through the purchase of conservation easements or the transfer of development rights and have the potential to preserve more farmland. Finally, the land use planning and farmland protection and preservation techniques are a package that is being replicated in other counties.

Counties that meet the above criteria include: Marin and Sonoma Counties in California, Baltimore and Montgomery

Counties in Maryland, and Lancaster County in Pennsylvania. Other counties, such as Chester County, PA, Kent County, DE, and Franklin and Addison Counties in Vermont have preserved more than 30,000 acres, but the zoning in the countryside, needs to be tightened up, and not one of these counties has a growth boundary.

Lexington-Fayette County, Kentucky is well on its way to joining the five successful counties cited above. The county is Kentucky's leading agricultural county with nearly \$300 million a year in the production of crops and livestock. Lexington and Fayette County agreed on the nation's first urban service district in 1958. In the late 1990s, an expansion of the urban service area was agreed to, but in return for changes in the countryside. The zoning went from one house per 10 acres to one house per 40 acres, and the city-county government began to purchase development rights from farmers. To date, there are about 10,000 acres of preserved farmland with many more acres slated to be preserved soon.

As a final note, since 1989, Lancaster County's Agricultural Preserve Board and the private Lancaster Farmland Trust have had a cooperative agreement to coordinate farmland preservation efforts. This public-private cooperation has resulted in a number of jointly

funded preservation projects, in particular the preservation of the farm where much of the movie "Witness" was filmed (Daniels 2000).

### Shortcomings

Land preservation is not a swift process. The procedures typically run as follows: 1) initial contact with the landowner; 2) the landowner applies to sell a conservation easement; 3) the government agency ranks applications from several landowners; 4) the government agency hires a professional appraiser to appraise the value of the conservation easement. This is a "double appraisal," involving an estimate of the market value of the property (also known as the "before value") and the value of the property subject to the conservation easement (known as the "after value"). The difference between the two values is the value of the conservation easement. Appraisals take time, anywhere from a few weeks to months; 5) if the landowner accepts the offer to purchase the conservation easement, the government agency must order a title search. A new survey of the property may have to be ordered to accurately describe the land subject to the conservation easement. This can take up to several weeks. If there are any mortgages on the property the mortgage holders must be

paid off when the conservation easement is settled, or the mortgage holders must agree to sign a subordination agreement which keeps the conservation easement intact even if the mortgage holder were to foreclose on the mortgage. If a mortgage holder cannot be paid off at settlement and refuses to sign a subordination agreement, then a conservation easement cannot be executed; 6) At settlement, the landowner receives a check for the conservation easement, the parties sign the Deed of Easement, and it is recorded along with any subordination agreements at the county courthouse; and 7) then monitoring and enforcement of the conservation easement begin.

A second shortcoming is the variability in funding. Many local programs have a long backlog of applicants interested in selling a conservation easement. If funding is not adequate, some of these applicants may drop out and pursue development options.

Third, purchasing conservation easements can be very expensive. For instance, in the Town of Southold in the Suffolk County where the purchase of conservation easements originated, conservation easements were running at \$30,000 to \$40,000 an acre in 2003. This translates into \$1.6 million to preserve a 40-acre farm. When the price of conservation easements exceeds \$5,000 an acre, local

governments will be hard pressed to fund easement purchases.

Finally, some local programs and land trusts lack a preservation strategy. They simply attempt to preserve whatever landowners offer to preserve. Public policies, such as a comprehensive plan and agricultural zoning should be in place to indicate where farmland should be preserved over the long run.

#### Federal Farmland Preservation

Federal efforts at farmland preservation have been hampered somewhat by disagreements within the U.S. Department of Agriculture over whether the loss of farmland poses a problem to the nation (see Daniels and Bowers 1997). In recent years, farmland has been going out of production at about 1.3 million acres a year. About half of this land is prime farmland, and most of it is in metropolitan counties where four out of five Americans live (NRCS 2001). These metro counties produce about one-fourth of America's food supply and the majority of its fruits and vegetables.

The federal government does not have a coherent strategy to protect farmland (U.S. GAO, 2000). Federal farm policy is dominated by farm-income policies which feature

direct payments to farmers for the production of corn, soybeans, wheat, cotton, and other crops. The 2002 Farm Bill, passed by Congress, was estimated to cost \$180 billion for crop payments over then next 10 years.

There is no federal farmland policy that states and local governments are required to follow. In Britain, by comparison, there has been a national policy to discourage farmland conversion since the Town and Country Planning Act of 1947. Instead, the federal government has left land use matters to the control of the states, counties, and municipalities. Even so, federal government does influence land use and the cost and location of private development through legal rulings by the Supreme Court, tax policy, and more than 90 spending programs. For instance, federal highway projects, federal grants to local governments for sewer and water projects, and the annual mortgage interest deduction for homeowners have subsidized the conversion of millions of acres of farmland over the past 50 years (Daniels and Bowers 1997, p. 76).

### Successes

The federal effort to provide funding for state and local governments and private land trusts to preserve farmland began very modestly in 1990 with the Farms for the

Future Act. The Act, now defunct, was created to loan federal money to states for the purchase of conservation easements to farmland. States would have been able to borrow up to \$10 million a year for five years, by matching one state dollar for every two dollars in federal loan money. But The Farms for the Future Act was limited to a pilot project in Vermont, which borrowed \$10.7 million in federal funds and purchased development rights to more than 9,000 acres of farmland between 1992 and 1995 (Daniels and Bowers, 1997, p. 82).

In the 1996 Farm Bill Congress abandoned the loan approach and provided \$35 million in federal grants to states and local governments with farmland preservation programs. It was hoped that new state and local farmland preservation programs would also be started to take advantage of the federal money. The \$35 million in funding helped to leverage state and local funds that resulted in the preservation of about 67,000 acres, according to the American Farmland Trust (AFT 2002, 9).

The Farm and Ranchland Protection Policy Act (FRPPA) included in the 2002 Farm Bill was a major funding breakthrough for farmland preservation. The Act authorized \$985 million over 10 years in federal grants to state and

local governments and private land trusts for the purchase of conservation easements to farmland.

Despite short-term federal budget deficits, the federal funding role for farmland preservation is likely to remain or expand within the next decade as the squeeze on farmland resources continues and more people bring farmland preservation to the attention of their representatives in Congress.

### Shortcomings

The Natural Resources Conservation Service (NRCS) which administers the federal farmland preservation program has been criticized for a lack of a preservation strategy. The NRCS has spread money around to dozens of states and made many grants to private land trusts. Spreading the money geographically can win the FRPPA supporters in Congress for future funding. But some states, such as New Hampshire and Rhode Island, have relatively little farming left. Private land trusts tend to operate outside of public land use planning which determines where land should be developed or preserved. This opens up the likelihood of a lack of consistency in preservation efforts.

### Conclusion



In those places that have strong agricultural industries, farmland preservation can play an important role toward ensuring the future of farming. Land use planning in America has traditionally meant "planning for development." Now, many places are recognizing the need to plan for the preservation of land as well.

In America's metropolitan regions, the value of farmland for farming purposes is less than the value of that farmland for house lots, strip malls, and office parks. Local governments in metro regions that attempt to rely solely on the purchase and donation of conservation easements will be hard pressed to find the money to pay high per acre easement prices or to create large contiguous blocks of preserved farmland. The risk is that these local governments will simply "throw money" at the farmland problem and preserve only "islands" in a sea of development.

Conversely, in more rural areas, the value of a conservation easement is likely to be so low as to not encourage farmer to sell or donate a conservation easement.

The successful farmland preservation programs combine significant local and state funding for farmland preservation with a package of farmland protection techniques--especially low density agricultural zoning to

minimize non-farm uses in farming areas and urban growth boundaries to limit the extension of central sewer and water lines and schools into the countryside.

The package approach will become more popular over time as greater pressure is placed on farmland in metropolitan counties. America is facing population growth of more than 100 million people to the year 2050, and most of this growth is expected to occur in metropolitan regions. If energy costs continue to rise, importing food from more than 1,000 miles away will be less attractive and local production will become more attractive. But first the farmland base has to be stabilized for the future.

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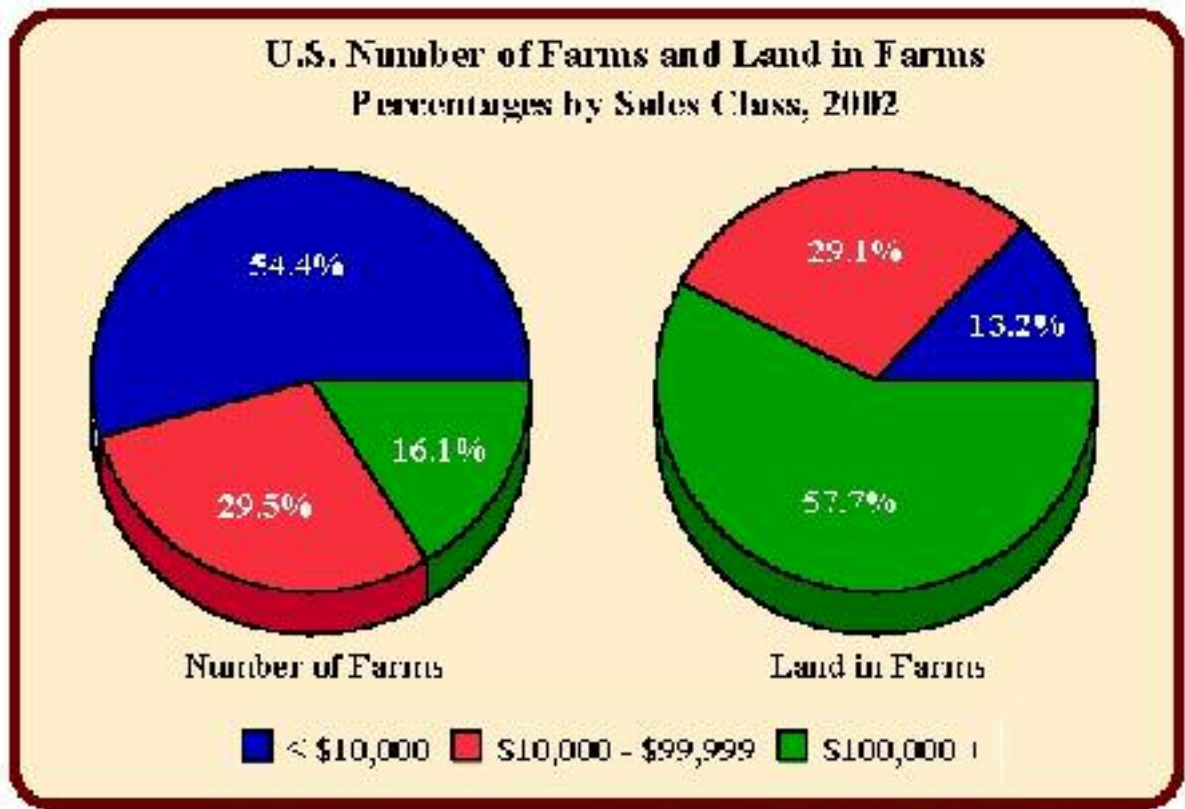
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Figure 1.



USDA, NASS Feb 2003

Figure 2

## Distribution of Farms and Land in Farms By Region, 2002



USDA, NASS Feb 2003

Figure 3

