(3) For the purposes of sub. (1), a county's increase in population per square mile is the percentage by which the county's population per square mile based on the department of administration's 2007 population estimate under s. 16.96 exceeds the county's population per square mile based on the 2000 federal census.

91.16 Certification of plan by the department. (1) GENERAL. The department may certify a farmland preservation plan or an amendment to a farmland preservation plan as provided in this section.

(2) CERTIFICATION PERIOD. (a) The department may certify a farmland preservation plan for a period that does not exceed 10 years. The department shall specify the expiration date of the certification of the farmland preservation plan in the certification.

(b) The certification of an amendment to a certified farmland preservation plan expires on the date that the certification of the farmland preservation plan expires, except that the department may treat a comprehensive revision of a certified farmland preservation plan as a new farmland preservation plan and shall specify an expiration date for the certification of the revised farmland preservation plan as provided in par. (a).

(3) SCOPE OF DEPARTMENT REVIEW. (a) The department may certify a county's farmland preservation plan or an amendment to the farmland preservation plan based on the county's certification under s. 91.20 (3), without conducting any additional review or audit.

(b) The department may do any of the following before it certifies a county's farmland preservation plan or amendment:

1. Review the farmland preservation plan or amendment for compliance with s. 91.18.

2. Review and independently verify the application for certification, including the statement under s. 91.20 (3).

(4) DENIAL OF CERTIFICATION. The department shall deny a county's application for certification of a farmland preservation plan or amendment if the department finds any of the following:

(a) That the farmland preservation plan or amendment does not comply with the requirements in s. 91.18.

(b) That the application for certification does not comply with s. 91.20.

(5) WRITTEN DECISION; DEADLINE. The department shall grant or deny an application for certification under this section no more than 90 days after the day on which the county submits a complete application, unless the county agrees to an extension. The department shall issue its decision in the form required by s. 227.47 (1).

(6) CONDITIONAL CERTIFICATION. The department may grant an application for certification under this section subject to conditions specified by the department in its decision under sub. (5). The department may certify a farmland preservation plan or amendment contingent upon the county board adopting the farmland preservation plan or amendment as certified.

(7) EFFECTIVE DATE OF CERTIFICATION. A certification under this section takes effect on the day on which the department issues its decision, except that if the department specifies conditions under sub. (6), the certification takes effect on the day on which the department determines that the county has met the conditions.

(8) EFFECTIVENESS OF PLAN AMENDMENTS. For purposes of this chapter and s. 71.613, a certified farmland preservation plan does not include an amendment

adopted after the effective date of this subsection .... [LRB inserts date], unless the department certifies the amendment.

(9) WITHDRAWAL OF CERTIFICATION. The department may withdraw a certification that it granted under sub. (3) (a) if the department finds that the farmland preservation plan materially violates the requirements under s. 91.18.

91.18 Requirements for certification of plan. (1) A farmland preservation plan qualifies for certification under s. 91.16 if it complies with all of the following:

(a) The requirements in s. 91.10 (1) and (2).

(b) Any other requirements that the department specifies by rule.

(2) An amendment to a farmland preservation plan qualifies for certification under s. 91.16 if it complies with all of the requirements in sub. (1) that are relevant to the amendment and it does not cause the farmland preservation plan to violate any of the requirements in sub. (1).

91.20 Applying for certification of plan. A county seeking certification of a farmland preservation plan or amendment to a farmland preservation plan shall submit all of the following to the department in writing, along with any other relevant information that the county chooses to provide:

(1) The proposed farmland preservation plan or amendment.

(2) All of the following background information:

(a) A concise summary of the farmland preservation plan or amendment, including key changes from any previously certified farmland preservation plan.

(b) A concise summary of the process by which the farmland preservation plan or amendment was developed, including public hearings, notice to and involvement of other governmental units within the county, approval by the county, and identification of any key unresolved issues between the county and other

governmental units within the county related to the farmland preservation plan or amendment.

(c) The relationship of the farmland preservation plan or amendment to any county comprehensive plan.

(3) A statement, signed by the county corporation counsel and the county planning director or chief elected official, certifying that the farmland preservation plan or amendment complies with all of the requirements in s. 91.18.

(4) Other relevant information that the department requires by rule.

SUBCHAPTER III

FARMLAND PRESERVATION ZONING

91.30 Authority to adopt. A political subdivision may adopt a farmland preservation zoning ordinance.

91.32 Certified ordinance. The following zoning ordinances are certified, for the purposes of this chapter and s. 71.613:

(1) An exclusive agricultural use zoning ordinance that was certified under s. 91.06, 2007 stats., if the certification has not expired or been withdrawn.

(2) A farmland preservation zoning ordinance that was certified under s. 91.36 if the certification has not expired or been withdrawn.

91.34 Expiration of zoning certification. (1) The certification of a farmland preservation zoning ordinance that was certified under s. 91.06, 2007 stats., expires on the date provided in the certification or, if the certification does not provide an expiration date, on the following date:

(a) December 31, 2012, for a county with an increase in population per square mile of more than 9 percent or a city, village, or town in such a county.

(b) December 31, 2013, for a county with an increase in population per square mile of more than 3.75 percent but not more than 9 percent or a city, village, or town in such a county.

(c) December 31, 2014, for a county with an increase in population per square mile of more than 1.75 percent but not more than 3.75 percent or a city, village, or town in such a county.

(d) December 31, 2015, for a county with an increase in population per square mile of more than 0.8 percent but not more than 1.75 percent or a city, village, or town in such a county.

(e) December 31, 2016, for a county with an increase in population per square mile of not more than 0.8 percent or a city, village, or town in such a county.

(2) The certification of a farmland preservation zoning ordinance that the department certifies under s. 91.36 expires on the date specified under s. 91.36 (2).

(3) For the purposes of sub. (1), a county's increase in population per square mile is the percentage by which the county's population per square mile based on the department of administration's 2007 population estimate under s. 16.96 exceeds the county's population per square mile based on the 2000 federal census.

91.36 Certification of zoning ordinance by the department. (1) GENERAL. The department may certify a farmland preservation zoning ordinance or an amendment to a farmland preservation zoning ordinance as provided in this section.

(2) CERTIFICATION PERIOD. (a) The department may certify a farmland preservation zoning ordinance for a period that does not exceed 10 years. The department shall specify the expiration date of the certification of the farmland preservation zoning ordinance in the certification.

(b) The certification of an amendment to a certified farmland preservation zoning ordinance expires on the date that the certification of the farmland preservation zoning ordinance expires, except that the department may treat a comprehensive revision of a certified farmland preservation zoning ordinance as a new farmland preservation zoning ordinance and specify an expiration date for the certification of the revised farmland preservation zoning ordinance as provided in par. (a).

(3) SCOPE OF DEPARTMENT REVIEW. (a) The department may certify a farmland preservation zoning ordinance or amendment to a farmland preservation zoning ordinance based on statements submitted under s. 91.40 (3) and (4), without conducting any additional review or audit.

(b) The department may do any of the following before it certifies a farmland preservation zoning ordinance or amendment:

1. Review the farmland preservation zoning ordinance or amendment for compliance with the requirements under s. 91.38.

2. Review and independently verify the application for certification, including the statements under s. 91.40 (3) and (4).

(4) DENIAL OF CERTIFICATION. The department shall deny an application for certification of a farmland preservation zoning ordinance or amendment if the department finds any of the following:

(a) That the farmland preservation zoning ordinance or amendment does not comply with the requirements in s. 91.38.

(b) That the application for certification does not comply with s. 91.40.

(5) WRITTEN DECISION; DEADLINE. The department shall grant or deny an application for certification under this section no more than 90 days after the day on

which the political subdivision submits a complete application, unless the political subdivision agrees to an extension. The department shall issue its decision in the form required by s. 227.47 (1).

(6) CONDITIONAL CERTIFICATION. The department may grant an application for certification under this section subject to conditions specified by the department in its decision under sub. (5). The department may certify a farmland preservation zoning ordinance or amendment contingent upon the political subdivision adopting the farmland preservation zoning ordinance or amendment as certified.

(7) EFFECTIVE DATE OF CERTIFICATION. A certification under this section takes effect on the day on which the department issues the certification, except that if the department specifies conditions under sub. (6), the certification takes effect on the day on which the department determines that the political subdivision has met the conditions.

(8) AMENDMENTS TO ORDINANCES; CERTIFICATION. (a) Except as provided in par. (b), an amendment to a certified farmland preservation zoning ordinance is automatically considered to be certified as part of the certified farmland preservation zoning ordinance.

(b) An amendment to a certified farmland preservation zoning ordinance that is one of the following and that is adopted after the effective date of this paragraph .... [LRB inserts date], is not automatically considered to be certified:

1. An amendment that is a comprehensive revision of a certified farmland preservation zoning ordinance.

2. An amendment that extends coverage of a certified farmland preservation zoning ordinance to a town that was not previously covered.

3. An amendment of a type specified by the department by rule that may materially affect compliance of the certified farmland preservation zoning ordinance with the requirements under s. 91.38.

(c) The department may withdraw certification of a farmland preservation zoning ordinance if, as a result of an amendment adopted after the effective date of this paragraph .... [LRB inserts date], the amended farmland preservation zoning ordinance fails to comply with the requirements under s. 91.38. This paragraph applies regardless of whether the farmland preservation zoning ordinance was originally certified under s. 91.06, 2007 stats., or under this section.

(d) A political subdivision shall notify the department in writing whenever the political subdivision adopts an amendment that is described in par. (b) 1. to 3. to a certified farmland preservation zoning ordinance. The political subdivision shall include a copy of the amendment in the notice. This paragraph does not apply to an amendment that rezones land out of a farmland preservation zoning district.

91.38 Requirements for certification of ordinance. (1) A farmland preservation zoning ordinance does not qualify for certification under s. 91.36 unless all of the following apply:

(a) The farmland preservation zoning ordinance includes jurisdictional, organizational, and enforcement provisions that are necessary for proper administration.

(c) The farmland preservation zoning ordinance clearly designates farmland preservation zoning districts in which land uses are limited in compliance with s. 91.42.

(d) The farmland preservation zoning ordinance includes maps that clearly delineate each farmland preservation zoning district, so that a reader can easily

determine whether a parcel is within a farmland preservation zoning district; that are correlated to the text under par. (e); and that comply with technical specifications that the department establishes by rule.

(e) The text of the farmland preservation zoning ordinance clearly describes the types of land uses authorized in each farmland preservation zoning district.

(f) The farmland preservation zoning ordinance is substantially consistent with a certified farmland preservation plan.

(g) Except as provided by the department by rule, land is not included in a farmland preservation zoning district unless the land is included in a farmland preservation area identified in the county certified farmland preservation plan.

(h) If an overlay district, such as an environmental corridor, is superimposed on a farmland preservation zoning district, all of the following apply:

1. The farmland preservation zoning ordinance clearly identifies the overlay district as such.

2. The overlay district is shown on the maps under par. (d) in a way that allows a reader to easily identify the underlying farmland preservation zoning district and its boundaries.

3. The overlay district does not remove land use restrictions from the underlying farmland preservation zoning district.

(i) The farmland preservation zoning ordinance complies with any other requirements that the department specifies by rule.

(2) An amendment to a farmland preservation zoning ordinance qualifies for certification under s. 91.36 if it complies with all of the requirements in sub. (1) that are relevant to the amendment and it does not cause the farmland preservation zoning ordinance to violate any of the requirements in sub. (1).

91.40 Applying for certification of ordinance. A political subdivision seeking certification of a farmland preservation zoning ordinance or amendment to a farmland preservation zoning ordinance shall submit all of the following to the department in writing, along with any other relevant information that the political subdivision chooses to provide:

(1) The complete farmland preservation zoning ordinance or amendment proposed for certification.

(2) All of the following background information:

(a) A concise summary of the farmland preservation zoning ordinance or amendment, including key changes from any previously certified farmland preservation zoning ordinance.

(b) A concise summary of the process by which the farmland preservation zoning ordinance or amendment was developed, including public hearings, notice to and involvement of other governmental units, approval by the political subdivision, and identification of any key unresolved issues with other governmental units related to the farmland preservation zoning ordinance or amendment.

(c) A description of the relationship of the farmland preservation zoning ordinance or amendment to the county certified farmland preservation plan, including any material inconsistencies between the farmland preservation zoning ordinance or amendment and the county certified farmland preservation plan.

(3) A statement, signed by the county planning director or the chief elected official, certifying that the farmland preservation zoning ordinance or amendment complies with s. 91.38 (1) (g) and (h).

(4) A statement, signed by the applicant's attorney or chief elected official, certifying that the farmland preservation zoning ordinance or amendment complies with all applicable requirements in s. 91.38.

(5) Other relevant information that the department requires by rule.

91.42 Land use in farmland preservation zoning districts; general. A farmland preservation zoning ordinance does not qualify for certification under s. 91.36, if the farmland preservation zoning ordinance allows a land use in a farmland preservation zoning district other than the following land uses:

(1) Uses identified as permitted uses in s. 91.44.

(2) Uses identified as conditional uses in s. 91.46.

(3) Prior nonconforming uses, subject to the following:

(a) A prior nonconforming use that is a residence may be expanded or remodeled, as long as there is no increase in the number of dwelling units in the residence.

(b) A prior nonconforming use that is not a residence may continue without further approval unless it is materially altered.

(c) The proposed farmland preservation zoning districts under the farmland preservation zoning ordinance contain only isolated prior nonconforming uses.

(4) Other uses allowed by the department by rule.

91.44 Permitted uses. (1) A farmland preservation zoning ordinance does not comply with s. 91.42 if the farmland preservation zoning ordinance allows as a permitted use in a farmland preservation zoning district a land use other than the following land uses:

(a) Agricultural uses.

(b) Accessory uses.

(c) Agriculture-related uses.

(d) Nonfarm residences constructed in a rural residential cluster in accordance with an approval of the cluster as a conditional use under s. 91.46 (1) (e).

(e) Undeveloped natural resource and open space areas.

(f) A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.

(g) Other uses identified by the department by rule.

(2) The department may promulgate rules imposing additional limits on the permitted uses that may be allowed in a farmland preservation zoning district in order for a farmland preservation zoning ordinance to comply with s. 91.42.

91.46 Conditional uses. (1) GENERAL. A farmland preservation zoning ordinance does not comply with s. 91.42 if the farmland preservation zoning ordinance allows as a conditional use in a farmland preservation zoning district a land use other than the following land uses:

(a) Agricultural uses.

(b) Accessory uses.

(c) Agriculture-related uses.

(d) Nonfarm residences that qualify under sub. (2) or that meet more restrictive standards in the farmland preservation zoning ordinance.

(e) Nonfarm residential clusters that qualify under sub. (3) or that meet more restrictive standards in the farmland preservation zoning ordinance.

(f) Transportation, communications, pipeline, electric transmission, utility, or drainage uses that qualify under sub. (4).

(g) Governmental, institutional, religious, or nonprofit community uses, other than uses covered by par. (f), that qualify under sub. (5).

(h) Nonmetallic mineral extraction that qualifies under sub. (6).

(i) Oil and gas exploration or production that is licensed by the department of natural resources under subch. II of ch. 295.

(j) Other uses allowed by the department by rule.

(1m) ADDITIONAL LIMITATIONS. The department may promulgate rules imposing additional limits on the conditional uses that may be allowed in a farmland preservation zoning district in order for a farmland preservation zoning ordinance to comply with s. 91.42.

(2) NONFARM RESIDENCES. A nonfarm residence qualifies for the purposes of sub. (1) (d) if the political subdivision determines that all of the following apply:

(a) The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the nonfarm residence will be located will not be greater than 1 to 20 after the nonfarm residence is constructed.

(b) There will not be more than 4 dwelling units in nonfarm residences, nor more than 5 dwelling units in residences of any kind, on the base farm tract after the nonfarm residence is constructed.

(c) The location of the proposed nonfarm residential parcel, and the location of the nonfarm residence on that nonfarm residential parcel, will not do any of the following:

1. Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there are reasonable alternative locations for a nonfarm residential parcel or nonfarm residence.

2. Significantly impair or limit the current or future agricultural use of other protected farmland.

(3) NONFARM RESIDENTIAL CLUSTER. A political subdivision may issue one conditional use permit that covers more than one nonfarm residence in a qualifying nonfarm residential cluster. A nonfarm residential cluster qualifies for the purposes of sub. (1) (e) if all of the following apply:

(a) The parcels on which the nonfarm residences would be located are contiguous.

(b) The political subdivision imposes legal restrictions on the construction of the nonfarm residences so that if all of the nonfarm residences were constructed, each would satisfy the requirements under sub. (2).

(4) TRANSPORTATION, COMMUNICATIONS, PIPELINE, ELECTRIC TRANSMISSION, UTILITY, OR DRAINAGE USE. A transportation, communications, pipeline, electric transmission, utility, or drainage use qualifies for the purposes of sub. (1) (f) if the political subdivision determines that all of the following apply:

(a) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

(b) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.

(c) The use is reasonably designed to minimize conversion of land, at and around the site of the use, from agricultural use or open space use.

(d) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

(e) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

(5) GOVERNMENTAL, INSTITUTIONAL, RELIGIOUS, OR NONPROFIT COMMUNITY USE. A governmental, institutional, religious, or nonprofit community use qualifies for the purposes of sub. (1) (g) if the political subdivision determines that all of the following apply:

(a) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

(b) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.

(c) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.

(d) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

(e) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

(6) NONMETALLIC MINERAL EXTRACTION. Nonmetallic mineral extraction qualifies for the purposes of sub. (1) (h) if the political subdivision determines that all of the following apply:

(a) The operation complies with subch. I of ch. 295 and rules promulgated under that subchapter, with applicable provisions of the local ordinance under s. 295.13 or 295.14, and with any applicable requirements of the department of transportation concerning the restoration of nonmetallic mining sites.

(b) The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

(c) The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.

(d) The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.

(e) The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

(f) The farmland preservation zoning ordinance requires the owner to restore the land to agricultural use, consistent with any required locally approved reclamation plan, when extraction is completed.

91.48 Rezoning of land out of a farmland preservation zoning district. **(1)** A political subdivision with a certified farmland preservation zoning ordinance may rezone land out of a farmland preservation zoning district without having the rezoning certified under s. 91.36, if all of the following apply:

(a) The political subdivision finds all of the following, after public hearing:

1. The land is better suited for a use not allowed in the farmland preservation zoning district.

2. The rezoning is consistent with any applicable comprehensive plan.

3. The rezoning is substantially consistent with the county certified farmland preservation plan.

4. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

(b) The owner of the land pays to the political subdivision, for each rezoned acre or portion thereof, a conversion fee equal to the greater of the following:

1. Three times the per acre value, for the year in which the land is rezoned, of the highest value category of tillable cropland in the city, village, or town in which the rezoned land is located, as specified by the department of revenue under s. 73.03 (2a).

2. An amount specified in the certified farmland preservation zoning ordinance.

(2) A political subdivision shall by March of 1 each year provide all of the following to the department:

(a) A report of the number of acres that the political subdivision has rezoned out of a farmland preservation zoning district under sub. (1) during the previous year and a map that clearly shows the location of those acres.

(b) A report of the total amount of conversion fees that the political subdivision received as conversion fees under sub. (1) (b) for the rezoned acres under par. (a).

(c) A conversion fee equal to the amount under sub. (1) (b) 1. for each rezoned acre reported under par. (a).

(3) A political subdivision that is not a county shall by March 1 of each year submit a copy of the information that it reports to the department under sub. (2) (a) and (b) to the county in which the political subdivision is located.

(4) If a political subdivision fails to comply with sub. (2), the department may withdraw the certification granted under s. 91.06, 2007 stats, or under s. 91.36 for the political subdivision's farmland preservation zoning ordinance.

91.49 Use of conversion fee revenues. (1) All conversion fees received under s. 91.48 (2) (c) shall be deposited in the working lands fund.

(2) If a political subdivision specifies a conversion fee under s. 91.48 (1) (b) 2. that is higher than the amount that is specified in s. 91.48 (1) (b) 1. and required to be paid to the department under s. 91.48 (2) (c), the political subdivision shall use the difference for its costs related to farmland preservation planning, zoning, or compliance monitoring.

91.50 Exemption from special assessments. (1) Except as provided in sub. (3), no political subdivision, special purpose district, or other local governmental entity may levy a special assessment for sanitary sewers or water against land in agricultural use, if the land is located in a farmland preservation zoning district.

(2) A political subdivision, special purpose district, or other local governmental entity may deny the use of improvements for which the special assessment is levied to land that is exempt from the assessment under sub. (1).

(3) The exemption under sub. (1) does not apply to an assessment that an owner voluntarily pays, after the assessing authority provides notice of the exemption under sub. (1).

SUBCHAPTER IV

FARMLAND PRESERVATION AGREEMENTS

91.60 Farmland preservation agreements; general. (1) AGREEMENTS AUTHORIZED. The department may enter into a farmland preservation agreement that complies with s. 91.62 with the owner of land that is eligible under sub. (2).

(2) ELIGIBLE LAND. Land is eligible if all of the following apply:

(a) The land is operated as part of a farm that produced at least $6,000 in gross farm revenues during the taxable year preceding the year in which the owner applies for a farmland preservation agreement or a total of at least $18,000 in gross farm revenues during the last 3 taxable years preceding the year in which the owner applies for a farmland preservation agreement.

(b) The land is located in a farmland preservation area identified in a certified farmland preservation plan.

(c) The land is in an agricultural enterprise area designated under s. 91.84.

(3) PRIOR AGREEMENTS. (a) Except as provided in par. (c) or s. 91.66, a farmland preservation agreement entered into before the effective date of this paragraph .... [LRB inserts date], remains in effect for the term specified in the agreement and under the terms that were agreed upon when the agreement was last created, extended, or renewed.

(b) The department may not extend or renew a farmland preservation agreement entered into before the effective date of this paragraph .... [LRB inserts date].

(c) The department and an owner of land who entered into a farmland preservation agreement before the effective date of this paragraph .... [LRB inserts date] may agree to modify the farmland preservation agreement in order to allow the owner to claim the tax credit under s. 71.613 rather than the tax credit for which the owner would otherwise be eligible.

91.62 Farmland preservation agreements; requirements. (1) CONTENTS. The department may not enter into a farmland preservation agreement unless the agreement does all of the following:

(a) Specifies a term of at least 15 years.

(b) Includes a correct legal description of the tract of land covered by the farmland preservation agreement.

(c) Includes provisions that restrict the tract of land to the following uses:

1. Agricultural uses and accessory uses.

2. Undeveloped natural resource and open space uses.

(2) FORM. The department shall specify a form for farmland preservation agreements that complies with s. 59.43 (2m).

(3) EFFECTIVENESS. A farmland preservation agreement takes effect when it is signed by all owners of the land covered by the farmland preservation agreement and by the department.

(4) RECORDING. The department shall provide a copy of a signed farmland preservation agreement to a person designated by the signing owners and shall promptly present the signed agreement to the register of deeds for the county in which the land is located for recording.

(5) CHANGE OF OWNERSHIP. A farmland preservation agreement is binding on a person who purchases land during the term of a farmland preservation agreement that covers the land.

91.64 Applying for a farmland preservation agreement. (1) SUBMITTING AN APPLICATION. An owner who wishes to enter into a farmland preservation agreement shall submit an application, on a form provided by the department, to the county clerk of the county in which the land is located.

(2) CONTENTS OF APPLICATION. A person submitting an application under sub. (1) shall include all of the following in the application:

(a) The name and address of each person who has an ownership interest in the land proposed for coverage by the agreement.

(b) The location of the land proposed for coverage, indicated by street address, global positioning system coordinates, or township, range, and section.

(c) The legal description of the land proposed for coverage.

(d) A map or aerial photograph of the land proposed for coverage, showing parcel boundaries, residences and other structures, and significant natural features.

(e) Information showing that the land proposed for coverage is eligible under s. 91.60 (2).

(f) A description of every existing mortgage, easement, and lien, other than liens on growing crops, on land proposed for coverage, including the name and address of the person holding the lien, mortgage, or easement.

(g) A signed agreement from each person required to be identified under par. (f) subordinating the person's lien, mortgage, or easement to the agreement.

(h) Any other information required by the department by rule.

(i) Any fee under sub. (2m).

(2m) COUNTY PROCESSING FEE. A county may charge a reasonable fee for processing an application for a farmland preservation agreement.

(3) COUNTY REVIEW. (a) A county shall review an application under sub. (2) to determine whether the land proposed for coverage meets the requirements under s. 91.60 (2) (b) and (c). The county shall provide its findings to the applicant in writing within 60 days after the day on which the county clerk receives a complete application.

(b) If the county finds under par. (a) that the land proposed for coverage meets the requirements under s. 91.60 (2) (b) and (c), the county shall promptly send all of

the following to the department, along with any other comments that the county chooses to provide:

1. The original application, including all of the information provided with the application.

2. A copy of the county's findings.

(4) DEPARTMENT ACTION ON APPLICATION. (a) The department may prepare a farmland preservation agreement that complies with s. 91.62 and enter into the farmland preservation agreement under s. 91.60 (1) based on a complete application and on county findings under sub. (3) (b).

(b) The department may decline to enter into a farmland preservation agreement for any of the following reasons:

1. The application is incomplete.

2. The land is not eligible land under s. 91.60 (2).

91.66 Terminating a farmland preservation agreement. (1) The department may terminate a farmland preservation agreement or release land from a farmland preservation agreement at any time if all of the following apply:

(a) All of the owners of land covered by the farmland preservation agreement consent to the termination or release, in writing.

(b) The department finds that the termination or release will not impair or limit agricultural use of other protected farmland.

(c) The owners of the land pay to the department, for each acre or portion thereof released from the farmland preservation agreement, a conversion fee equal to 3 times the per acre value, for the year in which the farmland preservation agreement is terminated or the land is released, of the highest value category of

tillable cropland in the city, village, or town in which the land is located, as specified by the department of revenue under s. 73.03 (2a).

(1m) All conversion fees received under sub. (1) (c) shall be deposited in the working lands fund.

(2) The department shall provide a copy of its decision to terminate a farmland preservation agreement or release land from a farmland preservation agreement to a person designated by the owners of the land and shall present a copy of the decision to the register of deeds for the county in which the land is located for recording.

91.68 Violations of farmland preservation agreements. (1) The department may bring an action in circuit court to do any of the following:

(a) Enforce a farmland preservation agreement.

(b) Restrain, by temporary or permanent injunction, a change in land use that violates a farmland preservation agreement.

(c) Seek a civil forfeiture for a change in land use that violates a farmland preservation agreement.

(2) A forfeiture under sub. (1) (c) may not exceed twice the fair market value of the land covered by the agreement at the time of the violation.

91.70 Farmland preservation agreements; exemption from special assessments. (1) Except as provided in sub. (3), no political subdivision, special purpose district, or other local governmental entity may levy a special assessment for sanitary sewers or water against land in agricultural use, if the land is covered by a farmland preservation agreement.

(2) A political subdivision, special purpose district or other local governmental entity may deny the use of improvements for which the special assessment is levied to land that is exempt from the assessment under sub. (1).

(3) The exemption under sub. (1) does not apply to an assessment that an owner voluntarily pays, after the assessing authority provides notice of the exemption under sub. (1).

SUBCHAPTER V

SOIL AND WATER CONSERVATION

91.80 Soil and water conservation by persons claiming tax credits. An owner claiming farmland preservation tax credits under s. 71.613 shall comply with applicable land and water conservation standards promulgated by the department under ss. 92.05 (3) (c) and (k), 92.14 (8), and 281.16 (3) (b) and (c).

91.82 Compliance monitoring. (1) COUNTY RESPONSIBILITY. (a) A county land conservation committee shall monitor compliance with s. 91.80.

(b) For the purpose of par. (a), a county land conservation committee shall inspect each farm for which the owner claims farmland preservation tax credits under subch. IX of ch. 71 at least once every 4 years.

(c) For the purpose of par (a), a county land conservation committee may do any of the following:

1. Inspect land that is covered by a farmland preservation agreement or farmland preservation zoning and that is in agricultural use.

2. Require an owner to certify, not more than annually, that the owner complies with s. 91.80.

(d) At least once every 4 years, the department shall review each county land conservation committee's compliance with par. (b).

(2) NOTICE OF NONCOMPLIANCE. (a) A county land conservation committee shall issue a written notice of noncompliance to an owner if the committee finds that the owner has done any of the following:

1. Failed to comply with s. 91.80.

2. Failed to permit a reasonable inspection under sub. (1) (c) 1.

3. Failed to certify compliance as required under sub. (1) (c) 2.

(b) A county land conservation committee shall provide to the department of revenue a copy of each notice of noncompliance issued under par. (a).

(c) If a county land conservation committee determines that an owner has corrected the failure described in a notice of noncompliance under par. (a), it shall withdraw the notice of noncompliance and notify the owner and the department of revenue of the withdrawal.

(3) PROCEDURE. The department may promulgate rules prescribing procedures for the administration of this section by land conservation committees.

SUBCHAPTER VI

AGRICULTURAL ENTERPRISE AREAS

91.84 Agricultural enterprise areas; general. (1) DESIGNATION. (a) 1. The department may by rule designate agricultural enterprise areas targeted for agricultural preservation and development.

2. The department may by rule modify or terminate the designation of an agricultural enterprise area.

(b) Subject to par. (c), the department may designate agricultural enterprise areas with a combined area of not more than 1,000,000 acres of land.

(c) Before January 1, 2012, the department may designate not more than 10 agricultural enterprise areas with a combined area of not more than 200,000 acres of land.

(e) The department may not designate an area as an agricultural enterprise area unless all of the following apply:

1. The department receives a petition requesting the designation and the petition complies with s. 91.86.

3. The parcels in the area are contiguous. Parcels that are only separated by a lake, stream, or transportation or utility right-of-way are contiguous for the purposes of this subdivision.

4. The area is located entirely in a farmland preservation area identified in a certified farmland preservation plan.

5. The land in the area is primarily in agricultural use.

(f) In designating agricultural areas under this subsection, the department shall give preference to areas that include at least 1,000 acres of land.

(2) EMERGENCY RULES. The department may use the procedure under s. 227.24 to promulgate a rule designating an agricultural preservation area or modifying or terminating the designation of an agricultural preservation area. Notwithstanding s. 227.24 (1) (c) and (2), a rule promulgated under this subsection remains in effect until the department modifies or repeals the rule. Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to determine that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

(3) EFFECT OF DESIGNATION. The designation of an area under sub. (1) allows owners of eligible land within the area to enter into farmland preservation agreements with the department. If the department modifies or terminates the designation of an area under sub. (1) and that modification or termination results in land covered by a farmland preservation agreement no longer being located in a designated area, the farmland preservation agreement remains in effect for the

remainder of its term, but the department may not extend or renew the farmland preservation agreement.

(4) MAP. In a rule designating an agricultural enterprise area, the department shall include a map that clearly shows the boundaries of the proposed agricultural enterprise area so that a reader can easily determine whether a parcel of land is located within the agricultural enterprise area.

(5) EFFECTIVE DATE OF DESIGNATION. The designation of an agricultural enterprise area takes effect on January 1 of the calendar year following the year in which the rule designating the area is published, unless the rule specifies a later effective date.

91.86 Agricultural enterprise area; petition. (1) DEFINITION. In this section, "eligible farm" means a farm that produced at least $6,000 in gross farm revenues during the taxable year preceding the year in which a petition is filed requesting the department to designate an area in which the farm is located as an agricultural enterprise area or a total of at least $18,000 in gross farm revenues during the 3 taxable years preceding the year in which a petition is filed.

(2) PETITIONERS. (a) The department may consider a petition requesting that it designate an area as an agricultural enterprise area if all of the following jointly file the petition:

1. Each political subdivision in which any part of the proposed agricultural enterprise area is located.

2. Owners of at least 5 eligible farms located in the area.

(b) Each petitioner under par. (a) who is an individual shall sign the petition. For a petitioner that is not an individual, an authorized officer or representative shall sign the petition.

(3) CONTENTS OF PETITION. (a) The department may not approve a petition requesting that it designate an area as an agricultural enterprising area unless the petition contains all of the following:

1. The correct legal name and principal address of each petitioner.

2. A summary of the petition that includes the purpose and rationale for the petition.

3. A map that clearly shows the boundaries of the proposed agricultural enterprise area so that a reader can easily determine whether a parcel of land is located within the proposed area.

4. Information showing that the proposed agricultural enterprise area meets the requirements under s. 91.84 (1) (e).

5. A clear description of current land uses in the proposed agricultural enterprise area, including current agricultural uses, agriculture-related uses, transportation, utility, energy, and communication uses, and undeveloped natural resource and open space uses.

6. A clear description of the agricultural land use and development goals for the proposed agricultural enterprise area, including proposed agricultural uses, agriculture-related uses, and relevant transportation, utility, energy, and communication uses.

7. A plan for achieving the goals under subd. 6., including any planned investments, grants, development incentives, cooperative agreements, land or easement purchases, land donations, and promotion and public outreach activities.

8. A description of any current or proposed land use controls in the proposed agricultural enterprise area, including farmland preservation agreements.

(b) Petitioners under sub. (2) may include in the petition the names and addresses of other persons who propose to cooperate in achieving the goals under par. (a) 6.

****NOTE: This is a reconciled treatment of ch. 91 (from LRB-0203/1). If this SECTION is deleted, treatment of some provisions of ch. 91 from LRB-1156/2 must be restored.

SECTION 71. 92.05 (3) (L) of the statutes is amended to read:

92.05 **(3)** (L) *Technical assistance; performance standards.* The department shall provide technical assistance to county land conservation committees and local units of government for the development of ordinances that implement standards adopted under s. 92.07 (2), ~~92.105 (1),~~ 92.15 (2) or (3) or 281.16 (3). The department's technical assistance shall include preparing model ordinances, providing data concerning the standards and reviewing draft ordinances to determine whether the draft ordinances comply with applicable statutes and rules.

SECTION 72. 92.104 of the statutes is repealed.

SECTION 73. 92.105 of the statutes is repealed.

SECTION 74. 92.106 of the statutes is repealed.

SECTION 75. 92.14 (2) (e) of the statutes is amended to read:

92.14 **(2)** (e) Promoting ~~compliance with the requirements under ss. 92.104 and 92.105~~ soil and water conservation by persons claiming ~~a~~ farmland preservation ~~credit~~ tax credits under subch. IX of ch. 71.

SECTION 76. 92.14 (3) (a) 1. of the statutes is amended to read:

92.14 **(3)** (a) 1. Compliance with soil and water conservation requirements ~~under ss. 92.104 and 92.105 by~~ applicable to persons claiming ~~a~~ farmland preservation ~~credit~~ tax credits under subch. IX of ch. 71.

SECTION 77. 92.14 (3) (d) of the statutes is amended to read:

92.14 **(3)** (d) Implementing land and water resource management projects undertaken to comply with ~~the~~ soil and water conservation requirements ~~under ss. 92.104 and 92.105 by~~ applicable to persons claiming ~~a~~ farmland preservation ~~credit~~ tax credits under subch. IX of ch. 71.

SECTION 78. 93.06 (10m) of the statutes is amended to read:

93.06 **(10m)** FARMLAND PRESERVATION COLLECTIONS. Enter into contracts to collect amounts owed to the state under ch. 91, 2007 stats., as the result of the relinquishment of, or the release of land from, a farmland preservation agreement or as the result of the rezoning of land zoned for exclusive agricultural use.

SECTION 79. 101.143 (4) (ei) 1m. a. of the statutes is amended to read:

101.143 **(4)** (ei) 1m. a. The owner or operator of the farm tank owns a parcel of 35 or more acres of contiguous land, on which the farm tank is located, which is devoted primarily to agricultural use, as defined in s. 91.01 ~~(1)~~ (2), including land designated by the department of natural resources as part of the ice age trail under s. 23.17, which during the year preceding submission of a first claim under sub. (3) produced gross farm profits, as defined in s. 71.58 (4), of not less than $6,000 or which, during the 3 years preceding that submission produced gross farm profits, as defined in s. 71.58 (4), of not less than $18,000, or a parcel of 35 or more acres, on which the farm tank is located, of which at least 35 acres, during part or all of the year preceding that submission, were enrolled in the conservation reserve program under 16 USC 3831 to 3836.

SECTION 80. 101.143 (4) (ei) 1m. b. of the statutes is amended to read:

101.143 **(4)** (ei) 1m. b. The claim is submitted by a person who, at the time that the notification was made under sub. (3) (a) 3., was the owner of the farm tank and owned a parcel of 35 or more acres of contiguous land, on which the farm tank is or

was located, which was devoted primarily to agricultural use, as defined in s. 91.01 ~~(1)~~ (2), including land designated by the department of natural resources as part of the ice age trail under s. 23.17, which during the year preceding that notification produced gross farm profits, as defined in s. 71.58 (4), of not less than $6,000 or which, during the 3 years preceding that notification, produced gross farm profits, as defined in s. 71.58 (4), of not less than $18,000, or a parcel of 35 or more acres, on which the farm tank is located, of which at least 35 acres, during part or all of the year preceding that notification, were enrolled in the conservation reserve program under 16 USC 3831 to 3836.

SECTION 81. 165.25 (4) (ar) of the statutes is amended to read:

165.25 **(4)** (ar) The department of justice shall furnish all legal services required by the department of agriculture, trade and consumer protection relating to the enforcement of ss. 91.68, 93.73, 100.171, 100.173, 100.174, 100.175, 100.177, 100.18, 100.182, 100.195, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.37, 100.42, 100.50, ~~and~~ 100.51, and 100.55~~,~~ and chs. 126, 136, 344, 704, 707, and 779, together with any other services as are necessarily connected to the legal services.

****NOTE: This is reconciled s. 165.25 (4) (ar). This SECTION has been affected by drafts with the following LRB numbers: -0202/2 and -0203/1.

SECTION 82. 281.16 (3) (e) of the statutes is amended to read:

281.16 **(3)** (e) An owner or operator of an agricultural facility or practice that is in existence before October 14, 1997, may not be required by this state or a municipality to comply with the performance standards, prohibitions, conservation practices or technical standards under this subsection unless cost-sharing is available, under s. 92.14 or 281.65 or from any other source, to the owner or operator. For the purposes of this paragraph, sub. (4) and ss. 92.07 (2), ~~92.105 (1),~~ 92.15 (4) and

823.08 (3) (c) 2., the department of natural resources shall promulgate rules that specify criteria for determining whether cost-sharing is available under s. 281.65 and the department of agriculture, trade and consumer protection shall promulgate rules that specify criteria for determining whether cost-sharing is available under s. 92.14 or from any other source. The rules may not allow a determination that cost-sharing is available to meet local regulations under s. 92.07 (2)~~, 92.105 (1)~~ or 92.15 that are consistent with or that exceed the performance standards, prohibitions, conservation practices or technical standards under this subsection unless the cost-sharing is at least 70% of the cost of compliance or is from 70% to 90% of the cost of compliance in cases of economic hardship, as defined in the rules.

SECTION 83. 281.65 (5) (b) of the statutes is amended to read:

281.65 **(5)** (b) Prepare sections of the priority watershed or priority lake plan relating to farm-specific implementation schedules, requirements under ~~ss. 92.104 and 92.105~~ s. 281.16 (3), animal waste management and selection of agriculturally related best management practices and submit those sections to the department for inclusion under sub. (4m) (b). The best management practices shall be cost-effective best management practices, as specified under sub. (4) (e), except in situations in which the use of a cost-effective best management practice will not contribute to water quality improvement or will cause a water body to continue to be impaired as identified to the federal environmental protection agency under 33 USC 1313 (d) (1) (A).

SECTION 84. 281.65 (5) (d) of the statutes is amended to read:

281.65 **(5)** (d) Develop a grant disbursement and project management schedule for agriculturally related best management practices to be included in a plan

established under sub. (4) (g) and identify recommendations for implementing activities or projects under ss. 92.10~~, 92.104 and 92.105~~ and 281.16 (3).

SECTION 85. 281.65 (5) (e) of the statutes is amended to read:

281.65 **(5)** (e) Identify areas within a priority watershed or priority lake area that are subject to activities required under ~~ss. 92.104 and 92.105~~ s. 281.16 (3).

SECTION 86. 289.33 (3) (d) of the statutes is amended to read:

289.33 **(3)** (d) "Local approval" includes any requirement for a permit, license, authorization, approval, variance or exception or any restriction, condition of approval or other restriction, regulation, requirement or prohibition imposed by a charter ordinance, general ordinance, zoning ordinance, resolution or regulation by a town, city, village, county or special purpose district, including without limitation because of enumeration any ordinance, resolution or regulation adopted under s. 91.73, 2007 stats., s. 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2), (5), (6), (7), (8), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26) and (27), 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19), (20) and (23), 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10), (11), (12), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25) and (26), 59.55 (3), (4), (5) and (6), 59.56 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16), 59.57 (1), 59.58 (1) and (5), 59.62, 59.69, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70 (1), (2), (3), (5), (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (5), (6), (7), (8), (10) and (11), 59.792 (2) and (3), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34, 61.35, 61.351, 61.354, 62.11, 62.23, 62.231, 62.234, 66.0101, 66.0415, 87.30, ~~91.73,~~ 196.58, 200.11 (8), 236.45, 281.43 or 349.16 ~~or,~~ subch. VIII of ch. 60, or subch III of ch. 91.

SECTION 87. 823.08 (2) (b) of the statutes is amended to read:

823.08 **(2)** (b) "Agricultural use" has the meaning given in s. 91.01 ~~(1)~~ (2).

SECTION 88. 846.04 (1) of the statutes is amended to read:

846.04 **(1)** The plaintiff may, in the complaint, demand judgment for any deficiency that may remain due the plaintiff after sale of the mortgaged premises against every party who is personally liable for the debt secured by the mortgage. Judgment may be rendered for any deficiency remaining after applying the proceeds of sale to the amount due. The judgment for deficiency shall be ordered in the original judgment and separately rendered against the party liable on or after the confirmation of sale. The judgment for deficiency shall be entered in the judgment and lien docket and, except as provided in subs. (2) and (3), enforced as in other cases. A mortgage foreclosure deficiency judgment entered on or after October 14, 1997, on property ~~devoted primarily to~~ under agricultural use, as defined in s. 91.01 ~~(5), on and after October 14, 1997,~~ (2), for at least 12 consecutive months during the preceding 36-month period shall be recorded as an agriculture judgment.

SECTION 89. 846.04 (2) of the statutes is amended to read:

846.04 **(2)** Except as provided in sub. (3), if a mortgage foreclosure deficiency judgment is entered on property ~~devoted primarily to~~ under agricultural use, as defined in s. 91.01 ~~(5),~~ (2), for at least 12 consecutive months during the preceding 36-month period, an action on the deficiency judgment shall be commenced within 10 years after the date on which the mortgage foreclosure deficiency judgment is entered or be barred.

SECTION 90. 946.13 (2) (g) of the statutes is amended to read:

946.13 **(2)** (g) Contracts with, or tax credits or payments received by, public officers or employees for wildlife damage claims or abatement under s. 29.889, for farmland preservation under s. 91.13, 2007 stats., or s. 91.60 or subch. IX of ch. 71

~~and s. 91.13~~, soil and water resource management under s. 92.14, soil erosion control under s. 92.10, 1985 stats., animal waste management under s. 92.15, 1985 stats., and nonpoint source water pollution abatement under s. 281.65.

SECTION 9343. Initial applicability; Revenue.

(1) FARMLAND PRESERVATION CREDIT. The treatment of section 71.613 of the statutes first applies to taxable years beginning on January 1, 2010.

(END)