

2011 DRAFTING REQUEST

Bill

Received: 12/22/2011

Received By: btradewe

Wanted: As time permits

Companion to LRB:

For: Dale Schultz (608) 266-0703

By/Representing: Sanchit Mulmuley

May Contact: DATCP

Drafter: btradewe

Subject: Agriculture - other

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Sen.Schultz@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Designation of agricultural enterprise areas

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	btradewe 02/06/2012	mduchek 02/15/2012	rschluet 02/15/2012	_____	ggodwin 02/15/2012	ggodwin 02/15/2012	

FE Sent For:

None

<END>

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/?	btradewe			==			
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FE Sent For:

2/15/12
2/3/12

<END>

Ag Enterprise Area Program

The second item is a change we'd like to pursue to the Ag Enterprise Area Program. The Agricultural Enterprise Area program was created as part of the Working Lands Initiative by 2009-2011 Biennial Budget. This new program authorizes the department to designate, modify or terminate Agricultural Enterprise Areas by administrative rule, ch. 91.84(1). Under ch. 91.84(2), Wis. Stats., the department is allowed to promulgate the administrative rule as an emergency rule without the finding of an emergency. The emergency rule created through this process remains in effect without further rule-making.

The designation of an AEA through administrative rule does not impose any additional restrictions or requirements upon individual land owners located within the boundary of the designated area. Therefore, the department feels it would be more appropriate for the designation, modification, or termination of AEAs to be made by the department through an order certifying the action, rather than through the hybrid rule-making approach identified in the current ch. 91.84, Wis. Stats. Providing for designation, modification, or termination of AEAs through an order of certification is consistent with the other aspects of the Working Lands Initiative, including certification of county farmland preservation plans and certification of farmland preservation ordinances.

91.84 (1) (a) 1 and 2, (2), (4) and (5) are amended to read:

91.84 (1) (a) 1. The department may by rule designate agricultural enterprise areas targeted for agricultural preservation and development or the department may designate agricultural enterprise areas targeted for agricultural preservation and development by order certifying the designation.

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

(2) EMERGENCY RULES; CERTIFICATION ORDER PUBLICATION. (a) The department may use the procedure under s. 227.24 to promulgate a rule designating an agricultural ~~preservation~~ enterprise area or modifying or terminating the designation of an agricultural ~~preservation~~ enterprise 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 but not later than December 31, 2012.

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.

(b) The department shall publish an order designating, modifying or terminating an agricultural enterprise area in the official state newspaper including a general description of the towns affected by the order. An agricultural enterprise area designated under this paragraph remains in effect until modified or terminated by a department order published in the official state newspaper.

(4) DETAIL MAP. In a rule or order 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. In a designation by rule, the detail map shall be published in the Wisconsin administrative register along with the rule text. In a designation by department order, the detail map shall be available on the department website at: <http://workinglands.wi.gov>.

(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 or order of certification designating the area is published unless the rule or order of certification specifies a later effective date. An order modifying or terminating an agricultural enterprise area takes effect upon publication in the official state newspaper.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3684/1

RCT:.....

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In 2/6

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1 AN ACT ~~relating to~~, relating to: designation, modification, and termination of
2 agricultural enterprise areas.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Agriculture, Trade and Consumer Protection (DATCP) administers the Farmland Preservation Program, which contains some of the requirements that a farmer must meet to qualify for the farmland preservation tax credit. Under current law, one requirement for qualifying for the tax credit is that the farmland must either be in a farmland preservation zoning district or be covered by a farmland preservation agreement executed by DATCP. Current law prohibits DATCP from entering into new farmland preservation agreements unless the farmland is in an agricultural enterprise area targeted for agricultural preservation and development. Under current law, DATCP designates agricultural enterprise areas by rule. The law allows DATCP to use emergency rule-making procedures to designate agricultural enterprise areas.

Under this bill, DATCP designates agricultural enterprise areas by order, rather than by rule.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

→ ~~Obat~~ Section #. RP: 91.02 (2) (0)

3 SECTION 1. 91.84 (1) (a) of the statutes is amended to read:

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SECTION 1

1 91.84 (1) (a) 1. The department may by ~~rule~~ order designate agricultural
2 enterprise areas targeted for agricultural preservation and development.

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

History: 2009 a. 28.

5 **SECTION 2.** 91.84 (1m) of the statutes is created to read:

6 91.84 (1m) PUBLICATION OF ORDER. The department shall publish a notice of an
7 order designating, modifying, or terminating an agricultural enterprise area,
8 including a general description of the towns affected by the order, in the official state
9 newspaper.

10 **SECTION 3.** 91.84 (2) of the statutes is repealed.

11 **SECTION 4.** 91.84 (2m) of the statutes is created to read:

12 91.84 (2m) EFFECTIVENESS OF PRIOR DESIGNATIONS. A rule designating an
13 agricultural enterprise area under s. 91.84 (2), 2009 stats., remains in effect until
14 December 31, 2012.

15 **SECTION 5.** 91.84 (4) of the statutes is amended to read:

16 91.84 (4) MAP. In ~~a rule~~ an order designating an agricultural enterprise area,
17 the department shall include a map that clearly shows the boundaries of the
18 proposed agricultural enterprise area so that a reader can easily determine whether
19 a parcel of land is located within the agricultural enterprise area. The department
20 shall make the map available on its ~~internet~~ ^{website} site. - STET leave as typed

History: 2009 a. 28.

21 **SECTION 6.** 91.84 (5) of the statutes is amended to read:

22 91.84 (5) EFFECTIVE DATE OF DESIGNATION ORDERS. The designation of an
23 agricultural enterprise area takes effect on January 1 of the calendar year following
24 the year in which the ~~rule~~ order designating the area is published, unless the ~~rule~~

BILL

1 order specifies a later effective date. An order modifying or terminating the
2 designation of an agricultural enterprise area takes effect upon publication under
3 sub. (1m).

History: 2009 a. 28.

4

(END)

10 Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3684/1dn

RCT:.....



This is a draft of the proposal concerning the designation of agricultural enterprise areas. My impression is that DATCP is no longer interested in designating agricultural enterprise areas by emergency rule and I have modified the proposed language to reflect that impression. This draft should be reviewed carefully because ~~I~~ am not certain that i have captured DATCP's intent in every respect.

Please contact me with any questions or redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3684/1dn
RCT:med:rs

February 15, 2012

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Managing Attorney
Phone: (608) 266-7290
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Godwin, Gigi

From: Mulmuley, Sanchit
Sent: Wednesday, February 15, 2012 5:04 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-3684/1 Topic: Designation of agricultural enterprise areas

Please Jacket LRB 11-3684/1 for the SENATE.