

1           **91.10 County plan required; planning grants.** (1) By January 1, 2016, a  
2 county shall adopt a farmland preservation plan that does all of the following:

3           (a) States the county's policy related to farmland preservation and agricultural  
4 development, including the development of enterprises related to agriculture.

5           (b) Identifies, describes, and documents other development trends, plans, or  
6 needs, that may affect farmland preservation and agricultural development in the  
7 county, including trends, plans, or needs related to population and economic growth,  
8 housing, transportation, utilities, communications, business development,  
9 community facilities and services, energy, waste management, municipal expansion,  
10 and environmental preservation.

11           (c) Identifies, describes, and documents all of the following:

12           1. Agricultural uses of land in the county at the time that the farmland  
13 preservation plan is adopted, including key agricultural specialities, if any.

14           2. Key agricultural resources, including available land, soil, and water  
15 resources.

16           3. Key infrastructure for agriculture, including key processing, storage,  
17 transportation, and supply facilities.

18           4. Significant trends in the county related to agricultural land use, agricultural  
19 production, enterprises related to agriculture, and the conversion of agricultural  
20 lands to other uses.

21           5. Anticipated changes in the nature, scope, location, and focus of agricultural  
22 production, processing, supply, and distribution.

23           6. Goals for agricultural development in the county, including goals related to  
24 the development of enterprises related to agriculture.

1           7. Actions that the county will take to preserve farmland and to promote  
2 agricultural development.

3           7m. Policies, goals, strategies, and proposed actions to increase housing  
4 density in areas that are not identified under par. (d).

5           8. Key land use issues related to preserving farmland and to promoting  
6 agricultural development and plans for addressing those issues.

7           (d) Clearly identifies areas that the county plans to preserve for agricultural  
8 use and agriculture-related uses, which may include undeveloped natural resource  
9 and open space areas but may not include any area that is planned for  
10 nonagricultural development within 15 years after the date on which the plan is  
11 adopted.

12           (dm) Describes the rationale used to determine which areas to identify under  
13 par. (d).

14           (e) Includes maps that clearly delineate all areas identified under par. (d), so  
15 that a reader can easily determine whether a parcel is within an identified area.

16           (f) Clearly correlates the maps under par. (e) with text that describes the types  
17 of land uses planned for each area on a map.

18           (g) Identifies programs and other actions that the county and local  
19 governmental units within the county may use to preserve the areas identified under  
20 par. (d).

21           **(2)** If the county has a comprehensive plan, the county shall include the  
22 farmland preservation plan in its comprehensive plan and shall ensure that the  
23 farmland preservation plan is consistent with the comprehensive plan. The county  
24 may incorporate information contained in other parts of the comprehensive plan into  
25 the farmland preservation plan by reference.

1           (3) To adopt a farmland preservation plan under sub. (1), a county shall follow  
2 the procedures under s. 66.1001 (4) for the adoption of a comprehensive plan.

3           (4) The department may provide information and assistance to a county in  
4 developing a farmland preservation plan under sub. (1).

5           (5) A county shall notify the department before the county holds a public  
6 hearing on a proposed farmland preservation plan under sub. (1) or on any  
7 amendment to a farmland preservation plan. The county shall include a copy of the  
8 proposed farmland preservation plan or amendment in the notice. The department  
9 may review and comment on the plan or amendment.

10          (6) (a) From the appropriation under s. 20.115 (7) (dm) or (tm), the department  
11 may award a planning grant to a county to provide reimbursement for up to 50  
12 percent of the county's cost of preparing a farmland preservation plan required under  
13 sub. (1). In determining priorities for awarding grants under this subsection, the  
14 department shall consider the expiration dates for plan certification under s. 91.14.

15          (b) The department shall enter into a contract with a county to which it awards  
16 a planning grant under par. (a) before the department distributes any grant funds  
17 to the county. In the contract, the department shall identify the costs that are eligible  
18 for reimbursement through the grant.

19          (c) The department may distribute grant funds under this subsection only after  
20 the county shows that it has incurred costs that are eligible for reimbursement under  
21 par. (b). The department may not distribute more than 50 percent of the amount of  
22 a grant under this subsection for a farmland preservation plan before the county  
23 submits the farmland preservation plan for certification under s. 91.16.

24          **91.12 Certified plan.** The following farmland preservation plans are  
25 certified, for the purposes of this chapter and s. 71.613:



1           (1) An agricultural preservation plan that was certified under s. 91.06, 2007  
2 stats., if the certification has not expired.

3           (2) A farmland preservation plan that was certified under s. 91.16 if the  
4 certification has not expired or been withdrawn.

5           **91.14 Expiration of plan certification.** (1) Except as provided under sub.  
6 (4), the certification of a farmland preservation plan that was certified under s. 91.06,  
7 2007 stats., expires on the date provided in the certification or, if the certification  
8 does not provide an expiration date, on the following date:

9           (a) December 31, 2011, for a county with an increase in population density of  
10 more than 9 persons per square mile.

11           (b) December 31, 2012, for a county with an increase in population density of  
12 more than 3.75 but not more than 9 persons per square mile.

13           (c) December 31, 2013, for a county with an increase in population density of  
14 more than 1.75 but not more than 3.75 persons per square mile.

15           (d) December 31, 2014, for a county with an increase in population density of  
16 more than 0.8 but not more than 1.75 persons per square mile.

17           (e) December 31, 2015, for a county with an increase in population density of  
18 not more than 0.8 person per square mile.

19           (2) The certification of a farmland preservation plan that the department  
20 certifies under s. 91.16 expires on the date specified under s. 91.16 (2).

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

1           (4) The secretary of agriculture, trade and consumer protection may delay the  
2 date for the expiration of a county's farmland preservation plan for up to 2 years  
3 beyond the date under sub. (1) upon a written request from the county demonstrating  
4 to the secretary's satisfaction that a delay would allow the county to concurrently  
5 develop a farmland preservation plan and a comprehensive plan or an update to a  
6 comprehensive plan.

7           **91.16 Certification of plan by the department.** (1) GENERAL. The  
8 department may certify a farmland preservation plan or an amendment to a  
9 farmland preservation plan as provided in this section.

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

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

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

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



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

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

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

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

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

11          **(5) WRITTEN DECISION; DEADLINE.** The department shall grant or deny an  
12 application for certification under this section no more than 90 days after the day on  
13 which the county submits a complete application, unless the county agrees to an  
14 extension. The department shall issue its decision in the form required by s. 227.47  
15 (1).

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

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

1           **(8) EFFECTIVENESS OF PLAN AMENDMENTS.** For purposes of this chapter and s.  
2           71.613, a certified farmland preservation plan does not include an amendment  
3           adopted after the effective date of this subsection .... [LRB inserts date], unless the  
4           department certifies the amendment.

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

8           **91.18 Requirements for certification of plan. (1)** A farmland preservation  
9           plan qualifies for certification under s. 91.16 if it complies with all of the following:

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

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

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

16           **91.20 Applying for certification of plan.** A county seeking certification of  
17           a farmland preservation plan or amendment to a farmland preservation plan shall  
18           submit all of the following to the department in writing, along with any other  
19           relevant information that the county chooses to provide:

20           **(1)** The proposed farmland preservation plan or amendment.

21           **(2)** All of the following background information:

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

24           (b) A concise summary of the process by which the farmland preservation plan  
25           or amendment was developed, including public hearings, notice to and involvement

1 of other governmental units within the county, approval by the county, and  
2 identification of any key unresolved issues between the county and other  
3 governmental units within the county related to the farmland preservation plan or  
4 amendment.

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

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

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

### 11 SUBCHAPTER III

#### 12 FARMLAND PRESERVATION ZONING

13 **91.30 Authority to adopt.** A political subdivision may adopt and administer  
14 a farmland preservation zoning ordinance in accordance with s. 59.69, 60.61, 60.62,  
15 or 62.23.

16 **91.32 Certified ordinance.** The following zoning ordinances are certified, for  
17 the purposes of this chapter and s. 71.613:

18 (1) An exclusive agricultural use zoning ordinance that was certified under s.  
19 91.06, 2007 stats., if the certification has not expired or been withdrawn.

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

22 **91.34 Expiration of zoning certification.** (1) Except as provided under  
23 sub. (4), the certification of a farmland preservation zoning ordinance that was  
24 certified under s. 91.06, 2007 stats., expires on the date provided in the certification  
25 or, if the certification does not provide an expiration date, on the following date:



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

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

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

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

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

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

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

20 (4) The secretary of agriculture, trade and consumer protection may delay the  
21 date for the expiration of a political subdivision's farmland preservation zoning  
22 ordinance for up to 2 years beyond the date under sub. (1) upon a written request  
23 from the political subdivision demonstrating to the secretary's satisfaction that a  
24 delay would allow the political subdivision to concurrently develop a farmland

1 preservation zoning ordinance and a comprehensive plan or an update to a  
2 comprehensive plan.

3 **91.36 Certification of zoning ordinance by the department. (1)**

4 GENERAL. The department may certify a farmland preservation zoning ordinance or  
5 an amendment to a farmland preservation zoning ordinance as provided in this  
6 section.

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

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

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

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

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

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

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

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

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

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

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

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

24           **(8) AMENDMENTS TO ORDINANCES; CERTIFICATION.** (a) Except as provided in par.  
25 (b), an amendment to a certified farmland preservation zoning ordinance is

1 automatically considered to be certified as part of the certified farmland preservation  
2 zoning ordinance.

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

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

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

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

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

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

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

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

7           (c) The farmland preservation zoning ordinance clearly designates farmland  
8 preservation zoning districts in which land uses are limited in compliance with s.  
9 91.42.

10           (d) The farmland preservation zoning ordinance includes maps that clearly  
11 delineate each farmland preservation zoning district, so that a reader can easily  
12 determine whether a parcel is within a farmland preservation zoning district; that  
13 are correlated to the text under par. (e); and that comply with technical specifications  
14 that the department establishes by rule.

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

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

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

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

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

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

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

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

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

12           **(3)** The limits on land uses in farmland preservation districts under s. 91.42  
13 are minimum standards for certification of a farmland preservation zoning  
14 ordinance under s. 91.36.

15           **91.40 Applying for certification of ordinance.** A political subdivision  
16 seeking certification of a farmland preservation zoning ordinance or amendment to  
17 a farmland preservation zoning ordinance shall submit all of the following to the  
18 department in writing, along with any other relevant information that the political  
19 subdivision chooses to provide:

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

22           **(2)** All of the following background information:

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

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

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

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

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

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

17 **91.42 Land use in farmland preservation zoning districts; general.** A  
18 farmland preservation zoning ordinance does not qualify for certification under s.  
19 91.36, if the farmland preservation zoning ordinance allows a land use in a farmland  
20 preservation zoning district other than the following land uses:

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

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

23 (3) Prior nonconforming uses, subject to s. 59.69 (10), 60.61 (5), or 62.23 (7) (h).

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

1           **91.44 Permitted uses. (1)** Except as provided in s. 84.01 (34), a farmland  
2 preservation zoning ordinance does not comply with s. 91.42 if the farmland  
3 preservation zoning ordinance allows as a permitted use in a farmland preservation  
4 zoning district a land use other than the following land uses:

5           (a) Agricultural uses.

6           (b) Accessory uses.

7           (c) Agriculture-related uses.

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

10          (e) Undeveloped natural resource and open space areas.

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

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

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

19           **91.46 Conditional uses. (1) GENERAL.** Except as provided in s. 84.01 (34),  
20 a farmland preservation zoning ordinance does not comply with s. 91.42 if the  
21 farmland preservation zoning ordinance allows as a conditional use in a farmland  
22 preservation zoning district a land use other than the following land uses:

23           (a) Agricultural uses.

24           (b) Accessory uses.

25           (c) Agriculture-related uses.



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

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

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

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

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

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

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

13 **(1m)** ADDITIONAL LIMITATIONS. The department may promulgate rules imposing  
14 additional limits on the conditional uses that may be allowed in a farmland  
15 preservation zoning district in order for a farmland preservation zoning ordinance  
16 to comply with s. 91.42.

17 **(2)** NONFARM RESIDENCES. A proposed new nonfarm residence or a proposal to  
18 convert a farm residence to a nonfarm residence through a change in occupancy  
19 qualifies for the purposes of sub. (1) (d) if the political subdivision determines that  
20 all of the following apply:

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

24 (b) There will not be more than 4 dwelling units in nonfarm residences, nor, for  
25 a new nonfarm residence, more than 5 dwelling units in residences of any kind, on

1 the base farm tract after the residence is constructed or converted to a nonfarm  
2 residence.

3 (c) The location and size of the proposed nonfarm residential parcel, and, for  
4 a new nonfarm residence, the location of the nonfarm residence on that nonfarm  
5 residential parcel, will not do any of the following:

6 1. Convert prime farmland from agricultural use or convert land previously  
7 used as cropland, other than a woodlot, from agricultural use if on the farm there is  
8 a reasonable alternative location or size for a nonfarm residential parcel or nonfarm  
9 residence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (a) The operation complies with subch. I of ch. 295 and rules promulgated under  
10 that subchapter, with applicable provisions of the local ordinance under s. 295.13 or  
11 295.14, and with any applicable requirements of the department of transportation  
12 concerning the restoration of nonmetallic mining sites.

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

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

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

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

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

4 **91.48 Rezoning of land out of a farmland preservation zoning district.**

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

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

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

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

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

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

17 (b) Beginning on January 1, 2010, the person who requests the rezoning pays  
18 to the political subdivision, for each rezoned acre or portion thereof, a conversion fee  
19 equal to the greater of the following:

20 1. Three times the per acre value, for the year in which the land is rezoned, of  
21 the highest value category of tillable cropland in the city, village, or town in which  
22 the rezoned land is located, as specified by the department of revenue under s. 73.03  
23 (2a).

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

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

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

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

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

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

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

16          **91.49 Use of conversion fee revenues.** (1) All conversion fees received  
17 under s. 91.48 (2) (c) shall be deposited in the working lands fund.

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

23          **91.50 Exemption from special assessments.** (1) Except as provided in sub.  
24 (3), no political subdivision, special purpose district, or other local governmental

1 entity may levy a special assessment for sanitary sewers or water against land in  
2 agricultural use, if the land is located in a farmland preservation zoning district.

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

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

#### 9 SUBCHAPTER IV

#### 10 FARMLAND PRESERVATION AGREEMENTS

11 **91.60 Farmland preservation agreements; general. (1) AGREEMENTS**  
12 AUTHORIZED. The department may enter into a farmland preservation agreement  
13 that complies with s. 91.62 with the owner of land that is eligible under sub. (2).

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

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

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

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

23 (3) PRIOR AGREEMENTS. (a) Except as provided in par. (c) or s. 91.66, a farmland  
24 preservation agreement entered into before the effective date of this paragraph ....  
25 [LRB inserts date], remains in effect for the term specified in the agreement and

1 under the terms that were agreed upon when the agreement was last created,  
2 extended, or renewed.

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

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

11 **91.62 Farmland preservation agreements; requirements. (1) CONTENTS.**

12 The department may not enter into a farmland preservation agreement unless the  
13 agreement does all of the following:

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

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

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

18 1. Agricultural uses and accessory uses.

19 2. Undeveloped natural resource and open space uses.

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

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



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

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

8           **91.64 Applying for a farmland preservation agreement.** (1) SUBMITTING  
9 AN APPLICATION. An owner who wishes to enter into a farmland preservation  
10 agreement shall submit an application, on a form provided by the department, to the  
11 county clerk of the county in which the land is located.

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

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

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

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

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

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

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

1 (g) A signed agreement from each person required to be identified under par.

2 (f) subordinating the person's lien, mortgage, or easement to the agreement.

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

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

5 **(2m) COUNTY PROCESSING FEE.** A county may charge a reasonable fee for  
6 processing an application for a farmland preservation agreement.

7 **(3) COUNTY REVIEW.** (a) A county shall review an application under sub. (2) to  
8 determine whether the land proposed for coverage meets the requirements under s.  
9 91.60 (2) (b) and (c). The county shall provide its findings to the applicant in writing  
10 within 60 days after the day on which the county clerk receives a complete  
11 application.

12 (b) If the county finds under par. (a) that the land proposed for coverage meets  
13 the requirements under s. 91.60 (2) (b) and (c), the county shall promptly send all of  
14 the following to the department, along with any other comments that the county  
15 chooses to provide:

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

18 2. A copy of the county's findings.

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

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

25 1. The application is incomplete.

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

2           **91.66 Terminating a farmland preservation agreement.** (1) The  
3 department may terminate a farmland preservation agreement or release land from  
4 a farmland preservation agreement at any time if all of the following apply:

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

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

9           (c) The owners of the land pay to the department, for each acre or portion  
10 thereof released from the farmland preservation agreement, a conversion fee equal  
11 to 3 times the per acre value, for the year in which the farmland preservation  
12 agreement is terminated or the land is released, of the highest value category of  
13 tillable cropland in the city, village, or town in which the land is located, as specified  
14 by the department of revenue under s. 73.03 (2a).

15           **(1m)** All conversion fees received under sub. (1) (c) shall be deposited in the  
16 working lands fund.

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

21           **91.68 Violations of farmland preservation agreements.** (1) The  
22 department may bring an action in circuit court to do any of the following:

23           (a) Enforce a farmland preservation agreement.

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



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

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

5 **91.70 Farmland preservation agreements; exemption from special**  
6 **assessments.** (1) Except as provided in sub. (3), no political subdivision, special  
7 purpose district, or other local governmental entity may levy a special assessment  
8 for sanitary sewers or water against land in agricultural use, if the land is covered  
9 by a farmland preservation agreement.

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

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

## 16 SUBCHAPTER V

### 17 SOIL AND WATER CONSERVATION

18 **91.80 Soil and water conservation by persons claiming tax credits.** An  
19 owner claiming farmland preservation tax credits under s. 71.613 shall comply with  
20 applicable land and water conservation standards promulgated by the department  
21 under ss. 92.05 (3) (c) and (k), 92.14 (8), and 281.16 (3) (b) and (c).

22 **91.82 Compliance monitoring.** (1) COUNTY RESPONSIBILITY. (a) A county  
23 land conservation committee shall monitor compliance with s. 91.80.

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

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

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

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

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

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

15 1. Failed to comply with s. 91.80.

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

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

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

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

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

## 1 SUBCHAPTER VI

## 2 AGRICULTURAL ENTERPRISE AREAS

3 **91.84 Agricultural enterprise areas; general. (1) DESIGNATION.** (a) 1. The  
4 department may by rule designate agricultural enterprise areas targeted for  
5 agricultural preservation and development.

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

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

10 (c) Before January 1, 2012, the department may designate not more than 15  
11 agricultural enterprise areas with a combined area of not more than 200,000 acres  
12 of land.

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

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

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

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

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

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

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

10           **(3) EFFECT OF DESIGNATION.** The designation of an area under sub. (1) allows  
11 owners of eligible land within the area to enter into farmland preservation  
12 agreements with the department. If the department modifies or terminates the  
13 designation of an area under sub. (1) and that modification or termination results in  
14 land covered by a farmland preservation agreement no longer being located in a  
15 designated area, the farmland preservation agreement remains in effect for the  
16 remainder of its term, but the department may not extend or renew the farmland  
17 preservation agreement.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

18 (a) 6.

19           **SECTION 1953.** 92.05 (3) (L) of the statutes is amended to read:

20           92.05 (3) (L) *Technical assistance; performance standards.* The department  
21 shall provide technical assistance to county land conservation committees and local  
22 units of government for the development of ordinances that implement standards  
23 adopted under s. 92.07 (2), ~~92.105 (1)~~, 92.15 (2) or (3) or 281.16 (3). The department's  
24 technical assistance shall include preparing model ordinances, providing data

1 concerning the standards and reviewing draft ordinances to determine whether the  
2 draft ordinances comply with applicable statutes and rules.

3 **SECTION 1954g.** 92.07 (15) of the statutes is amended to read:

4 92.07 (15) ADMINISTRATION AND ENFORCEMENT OF ORDINANCES. A land  
5 conservation committee may, if authorized by the county board, administer and  
6 enforce those provisions of an ordinance enacted under s. 101.65 (1) (a) related to  
7 construction site erosion, a zoning ordinance enacted under s. 59.693 or an ordinance  
8 enacted under authority granted under s. ~~101.1205~~ 281.33 (3m).

9 **SECTION 1959.** 92.104 of the statutes is repealed.

10 **SECTION 1960.** 92.105 of the statutes is repealed.

11 **SECTION 1961.** 92.106 of the statutes is repealed.

12 **SECTION 1962.** 92.14 (2) (e) of the statutes is amended to read:

13 92.14 (2) (e) Promoting ~~compliance with the requirements under ss. 92.104 and~~  
14 ~~92.105~~ soil and water conservation by persons claiming ~~a~~ farmland preservation  
15 ~~credit~~ tax credits under subch. IX of ch. 71.

16 **SECTION 1962t.** 92.14 (3) (intro.) of the statutes is amended to read:

17 92.14 (3) BASIC ALLOCATIONS TO COUNTIES. (intro.) To help counties fund their  
18 land and water conservation activities, the department shall award an annual grant  
19 from the appropriation under s. 20.115 (7) (c), ~~(qe)~~, or ~~(qd)~~ (qf) or s. 20.866 (2) (we)  
20 to any county land conservation committee that has a land and water resource  
21 management plan approved by the department under s. 92.10 (4) (d), and that, by  
22 county board action, has resolved to provide any matching funds required under sub.  
23 (5g). The county may use the grant for land and water resource management  
24 planning and for any of the following purposes, consistent with the approved land  
25 and water resource management plan:

1           **SECTION 1963.** 92.14 (3) (a) 1. of the statutes is amended to read:

2           92.14 (3) (a) 1. Compliance with soil and water conservation requirements  
3 under ~~ss. 92.104 and 92.105~~ by applicable to persons claiming ~~a~~ farmland  
4 preservation ~~credit~~ tax credits under subch. IX of ch. 71.

5           **SECTION 1964.** 92.14 (3) (d) of the statutes is amended to read:

6           92.14 (3) (d) Implementing land and water resource management projects  
7 undertaken to comply with the soil and water conservation requirements ~~under ss.~~  
8 ~~92.104 and 92.105~~ by applicable to persons claiming ~~a~~ farmland preservation ~~credit~~  
9 tax credits under subch. IX of ch. 71.

10          **SECTION 1970.** 93.06 (10m) of the statutes is amended to read:

11          93.06 (10m) FARMLAND PRESERVATION COLLECTIONS. Enter into contracts to  
12 collect amounts owed to the state under ch. 91, 2007 stats., as the result of the  
13 relinquishment of, or the release of land from, a farmland preservation agreement  
14 or as the result of the rezoning of land zoned for exclusive agricultural use.

15          **SECTION 1971.** 93.20 (2) of the statutes is amended to read:

16          93.20 (2) ENFORCEMENT COSTS ORDER. If a court imposes costs under s. 814.04  
17 or 973.06 against a defendant in an action, the court may order that defendant to ~~pay~~  
18 ~~to~~ reimburse the department ~~any of the~~ for reasonable, documented enforcement  
19 costs ~~specified under sub. (3) that~~ incurred by the department ~~has incurred to~~  
20 prepare and prosecute that action. The prosecutor shall present evidence of the  
21 enforcement costs and the defendant shall be given an opportunity to refute that  
22 evidence. If any cost that a court orders a defendant to pay under this section may  
23 also be recovered by the department under s. 814.04 or 973.06, the department may  
24 recover that cost only under this section, but that cost is not limited to the amounts  
25 specified in s. 814.04 or 973.06.

1           **SECTION 1972.** 93.20 (3) of the statutes is repealed.

2           **SECTION 1973.** 93.20 (4) of the statutes is repealed.

3           **SECTION 1973e.** 93.23 (1) (intro.) of the statutes is amended to read:

4           **93.23 (1) STATE AID TO COUNTY FAIRS AND AGRICULTURAL SOCIETIES.** (intro.) State  
5 aid appropriated by s. 20.115 (4) (b) and (t) to counties and agricultural societies,  
6 associations or boards shall be paid subject to the following conditions:

7           **SECTION 1973f.** 93.23 (1) (intro.) of the statutes, as affected by 2009 Wisconsin  
8 Act .... (this act), is amended to read:

9           **93.23 (1) STATE AID TO COUNTY FAIRS AND AGRICULTURAL SOCIETIES.** (intro.) State  
10 aid appropriated by s. 20.115 (4) (b) ~~and (t)~~ to counties and agricultural societies,  
11 associations or boards shall be paid subject to the following conditions:

12           **SECTION 1973i.** 93.23 (1) (a) 1. (intro.) of the statutes is amended to read:

13           **93.23 (1) (a) 1. (intro.)** To each county, and any organized agricultural society,  
14 association, or board in the state that complies with the requirements of this section,  
15 95 percent of the first \$8,000 paid in net premiums and 70 percent of all net  
16 premiums paid in excess of \$8,000 at its annual fair upon livestock, articles of  
17 production, educational exhibits, agricultural implements and tools, domestic  
18 manufactures, mechanical implements, and productions, but not more than \$10,000  
19 per fair, subject to equitable prorating if the total amount due exceeds the amount  
20 available and to all of the following:

21           **SECTION 1974.** 93.53 of the statutes is created to read:

22           **93.53 Beginning farmer and farm asset owner tax credit eligibility. (1)**

23           DEFINITIONS. In this section:

24           (a) "Agricultural asset" means machinery, equipment, facilities, or livestock  
25 that is used in farming.

1 (b) "Beginning farmer" means an individual who meets the conditions specified  
2 in sub. (2).

3 (c) "Educational institution" means the Wisconsin Technical College System,  
4 the University of Wisconsin-Extension, the University of Wisconsin-Madison, or  
5 any other institution that is approved by the department under sub. (6) (a).

6 (d) "Established farmer" means a person who meets the conditions specified in  
7 sub. (3).

8 (e) "Farming" has the meaning given in section 464 (e) (1) of the Internal  
9 Revenue Code.

10 (f) "Financial management program" means a course in farm financial  
11 management that is offered by an educational institution.

12 **(2) BEGINNING FARMER.** An individual is a beginning farmer for the purposes of  
13 s. 71.07 (8r), 71.28 (8r), or 71.47 (8r) if, at the time that the individual submits an  
14 application under sub. (4), all of the following apply:

15 (a) The individual has a net worth of less than \$200,000.

16 (b) The individual has farmed for fewer than 10 years out of the preceding 15  
17 years.

18 (c) The individual has entered into a lease for a term of at least 3 years with  
19 an established farmer for the use of the established farmer's agricultural assets by  
20 the beginning farmer.

21 (d) The individual uses the leased agricultural assets for farming.

22 **(3) ESTABLISHED FARMER.** A person is an established farmer for the purposes of  
23 s. 71.07 (8r), 71.28 (8r), or 71.47 (8r) if, at the time that the person submits an  
24 application under sub. (4), all of the following apply:

25 (a) The person has engaged in farming for a total of at least 10 years.



1 (b) The person owns agricultural assets.

2 (c) The person has entered into a lease for a term of at least 3 years with a  
3 beginning farmer for the use of the person's agricultural assets by the beginning  
4 farmer.

5 (4) APPLICATIONS. (a) In order for an experienced farmer to claim the farm asset  
6 owner tax credit under s. 71.07 (8r) (b) 2., 71.28 (8r), or 71.47 (8r), the experienced  
7 farmer and the beginning farmer who is leasing agricultural assets from the  
8 experienced farmer shall each submit an application to the department.

9 (b) An established farmer shall include in the application under this subsection  
10 the established farmer's name and address, information showing that the  
11 established farmer satisfies the conditions in specified in sub. (3), a description of the  
12 leased agricultural assets and their location, a copy of the lease, and any other  
13 information required by the department.

14 (c) A beginning farmer shall include all of the following in an application under  
15 this subsection:

16 1. The beginning farmer's name and address.

17 2. Information showing that the beginning farmer satisfies the conditions in  
18 sub. (2).

19 3. A business plan that includes a current balance sheet and projected balance  
20 sheets for 3 years, cash flow statements, and income statements along with a  
21 detailed description of all significant accounting assumptions used in developing the  
22 financial projections.

23 4. A description of the beginning farmer's education, training, and experience  
24 in the type of farming in which the beginning farmer uses the leased agricultural  
25 assets.

1           5. A copy of the beginning farmer's completed federal profit or loss from farming  
2 form, schedule F, or other documentation approved by the department under sub. (6).

3           6. Any other information required by the department.

4           (d) If a beginning farmer wishes to claim the beginning farmer educational  
5 credit under s. 71.07 (8r) (b) 1., the beginning farmer shall also include in the  
6 application under this subsection a description of the financial management  
7 program completed by the beginning farmer and a statement of the amount that the  
8 beginning farmer paid the educational institution to enroll in the financial  
9 management program.

10           **(5) EVALUATION AND CERTIFICATION.** (a) The department shall review  
11 applications submitted under sub. (4) (a).

12           (b) The department shall provide an established farmer with a certificate of  
13 eligibility for the farm asset owner tax credit under s. 71.07 (8r) (b) 2., 71.28 (8r), or  
14 71.47 (8r) if all of the following apply:

15           1. The established farmer's application complies with sub. (4) (b).

16           2. The beginning farmer's application complies with sub. (4) (c).

17           3. The department determines that the business plan submitted under sub. (4)  
18 (c) 3. and the education, training, or experience described under sub. (4) (c) 4. show  
19 that the beginning farmer has sufficient resources and education, training, or  
20 experience for the type of farming in which the beginning farmer uses the leased  
21 agricultural assets.

22           (c) The department shall provide a beginning farmer with a certificate of  
23 eligibility for the beginning farmer educational credit under s. 71.07 (8r) (b) 1. if the  
24 department has issued a certificate of eligibility under par. (b) for the experienced  
25 farmer from whom the beginning farmer leases farm assets and the information

1 provided under sub. (4) (d) shows that the beginning farmer has completed a  
2 financial management program.

3 (6) DEPARTMENT AUTHORITY. (a) The department may approve providers of  
4 courses in farm financial management for the purposes of the beginning farmer  
5 educational credit under s. 71.07 (8r) (b) 1.

6 (b) The department may approve alternative documentation for the purposes  
7 of sub. (4) (c) 5.

8 (c) The department may assist beginning farmers to develop business plans for  
9 the purposes of sub. (4) (c) 3. and may assist in the negotiation of leases of farm assets  
10 that may enable persons to qualify for tax credits under s. 71.07 (8r), 71.28 (8r), or  
11 71.47 (8r).

12 SECTION 1977. 93.73 of the statutes is created to read:

13 **93.73 Purchase of agricultural conservation easements.**

14 (1) LEGISLATIVE FINDINGS. The legislature finds all of the following:

15 (a) That the preservation of farmland is important for current and future  
16 agricultural production in this state, including the production of food and other  
17 products needed to sustain the life, health, and welfare of the people of this state.

18 (b) That the preservation of farmland is important for the current and future  
19 state economy and for the current and future environment of this state.

20 (c) That purchases of agricultural conservation easements, as provided in this  
21 section, serve important public purposes of statewide significance.

22 (1m) DEFINITIONS. In this section:

23 (a) "Agricultural conservation easement" means a conservation easement, as  
24 defined in s. 700.40 (1) (a), the purpose of which is to assure the availability of land  
25 for agricultural use.



1 (b) "Agricultural use" means any of the following:

- 2 1. Any of the following activities conducted for the purpose of producing an  
3 income or livelihood:
- 4 a. Crop or forage production.
  - 5 b. Keeping livestock.
  - 6 c. Beekeeping.
  - 7 d. Nursery, sod, or Christmas tree production.
  - 8 e. Floriculture.
  - 9 f. Aquaculture.
  - 10 g. Fur farming.
  - 11 h. Forest management.
  - 12 i. Enrollment of land in a federal agricultural commodity payment program or  
13 a federal or state agricultural land conservation payment program.

14 2. Any other use that the department, by rule, identifies as an agricultural use.

15 (c) "Cooperating entity" means a political subdivision or nonprofit conservation  
16 organization.

17 (d) "Fair market value" means value as determined by a professional appraisal  
18 that is approved by the department.

19 (dm) "Livestock" means bovine animals, equine animals, goats, poultry, sheep,  
20 swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised  
21 fish.

22 (e) "Nonprofit conservation organization" means a nonstock corporation,  
23 charitable trust, or other entity whose purposes include the acquisition of property  
24 for conservation or agricultural preservation purposes, that is described in section  
25 501 (c) (3) of the Internal Revenue Code, that is exempt from federal income tax

1 under section 501 (a) of the Internal Revenue Code, and that is a qualified  
2 organization under section 170 (h) (3) of the Internal Revenue Code.

3 (f) "Political subdivision" means a city, village, town, or county.

4 (g) "Professional appraisal" means an appraisal conducted by a certified  
5 general appraiser, as defined in s. 458.01 (8).

6 (h) "Purchase cost" means the amount paid to a landowner to acquire an  
7 agricultural conservation easement from the landowner.

8 (i) "Transaction costs" means out-of-pocket expenses incurred in connection  
9 with the acquisition, processing, recording, and documentation of an agricultural  
10 conservation easement, including out-of-pocket expenses for land surveys, land  
11 descriptions, real estate appraisals, title verification, preparation of legal  
12 documents, reconciliation of conflicting property interests, documentation of  
13 existing land uses, and closing. "Transaction costs" does not include costs incurred  
14 by a cooperating entity for staffing, overhead, or operations.

15 **(2) PROGRAM.** (a) The department shall administer a program under which it,  
16 together with cooperating entities, purchases agricultural conservation easements  
17 from willing landowners. The department may pay as its share of the cost to  
18 purchase an agricultural conservation easement under this section an amount that  
19 does not exceed the sum of the following:

20 1. Fifty percent of the fair market value of the agricultural conservation  
21 easement.

22 2. The reasonable transaction costs related to the purchase of the agricultural  
23 conservation easement.

24 (am) The willingness of a landowner to convey an agricultural conservation  
25 easement for less than full market value does not reduce the amount that the

1 department may pay as its share of the cost to purchase the agricultural conservation  
2 easement.

3 (b) The department, after consultation with the council under sub. (13), shall  
4 solicit applications under sub. (3) at least annually. The department shall issue each  
5 solicitation in writing and shall publish a notice announcing the solicitation. In  
6 soliciting applications, the department may specify the total amount of funds  
7 available, application deadlines, application requirements and procedures,  
8 preliminary criteria for evaluating applications, and other relevant information.

9 (3) APPLICATION. A cooperating entity may apply to participate in the program  
10 under this section by submitting an application that complies with requirements  
11 contained in the department's solicitation under sub. (2) (b) and that contains all of  
12 the following:

13 (a) Identifying information for the cooperating entity, including information  
14 showing that the cooperating entity is a political subdivision or nonprofit  
15 conservation organization.

16 (b) A description of the land that would be subject to the proposed agricultural  
17 conservation easement, including location, acreage, and current use.

18 (c) The name and address of each owner of land that would be subject to the  
19 proposed agricultural conservation easement.

20 (d) Evidence that all of the owners under par. (c) are willing to convey the  
21 proposed agricultural conservation easement.

22 (e) An indication that the cooperating entity is willing to arrange the purchase  
23 of the proposed agricultural conservation easement in accordance with this section  
24 and share in the purchase cost, subject to reimbursement under sub. (9) of the  
25 department's agreed upon share of the costs.

1 (f) The purpose of and rationale for the proposed agricultural conservation  
2 easement.

3 (g) Information needed to evaluate the application using the criteria in sub. (4)  
4 and in the department's solicitation under sub. (2) (b).

5 (4) APPLICATION EVALUATION CRITERIA. The department may not approve an  
6 application under sub. (3) unless all of the land that would be subject to the proposed  
7 agricultural conservation easement is in a farmland preservation area, as defined in  
8 s. 91.01 (16), and the department determines that purchase of the proposed  
9 agricultural conservation easement will serve a public purpose. In making this  
10 determination, the department shall consider all of the following criteria:

11 (a) The value of the proposed agricultural conservation easement in preserving  
12 or enhancing agricultural production capacity in this state.

13 (b) The importance of the proposed agricultural conservation easement in  
14 protecting or enhancing the waters of the state or in protecting or enhancing other  
15 public assets.

16 (c) The extent to which the proposed agricultural conservation easement would  
17 conserve important or unique agricultural resources, such as prime soils and soil  
18 resources that are of statewide importance or are unique.

19 (d) The extent to which the proposed agricultural conservation easement would  
20 be consistent with local land use plans and zoning ordinances, including any certified  
21 farmland preservation plans and zoning ordinances under ch. 91.

22 (e) The extent to which the proposed agricultural conservation easement would  
23 enhance an agricultural enterprise area designated under s. 91.84.

24 (f) The availability, practicality, and effectiveness of other methods to preserve  
25 the land that would be subject to the proposed agricultural conservation easement.

1 (h) The proximity of the land that would be subject to the proposed agricultural  
2 conservation easement to other land that is protected for agricultural use or  
3 conservation use and the extent to which the proposed agricultural conservation  
4 easement would enhance that protection.

5 (i) The likely cost-effectiveness of the proposed agricultural conservation  
6 easement in preserving land for agricultural use.

7 (j) The likelihood that the land that would be subject to the proposed  
8 agricultural conservation easement would be converted to nonagricultural use if the  
9 land is not protected by the proposed agricultural conservation easement.

10 (k) The apparent willingness of each landowner to convey the proposed  
11 agricultural conservation easement.

12 **(5) PRELIMINARY APPROVAL OF APPLICATIONS.** The department may give  
13 preliminary approval to an application under sub. (3) after evaluating the  
14 application under sub. (4) and consulting with the council under sub. (13). The  
15 department shall give its preliminary approval in writing. Approval of an  
16 application is contingent on the signing of a contract under sub. (6m).

17 **(6) INFORMATION RELATED TO PROPOSED EASEMENT.** A cooperating entity that  
18 receives a preliminary approval under sub. (5) shall submit all of the following to the  
19 department:

20 (a) A copy of the proposed instrument for conveying the agricultural  
21 conservation easement.

22 (b) A professional appraisal of the proposed agricultural conservation  
23 easement, other than an appraisal obtained by an owner of the land that would be  
24 subject to the proposed agricultural conservation easement.

25 (c) A statement of the purchase cost of the agricultural conservation easement.

1 (d) An estimate of the transaction costs that the cooperating entity will incur  
2 in connection with the purchase of the proposed agricultural conservation easement.

3 (e) The record of a complete search of title records that verifies ownership of  
4 the land that would be subject to the proposed agricultural conservation easement  
5 and identifies any potentially conflicting property interests, including any liens,  
6 mortgages, easements, or reservations of mineral rights.

7 (f) Documentation showing to the satisfaction of the department that any  
8 material title defects will be eliminated and any materially conflicting property  
9 interests will be subordinated to the proposed agricultural conservation easement  
10 or eliminated.

11 **(6d) SECOND APPRAISAL.** The department shall obtain its own independent  
12 appraisal of a proposed agricultural conservation easement for which the  
13 department has given preliminary approval under sub. (5) if the fair market value  
14 of the proposed agricultural conservation easement is estimated by the department  
15 to be more than \$350,000.

16 **(6h) REVIEW BY JOINT COMMITTEE ON FINANCE.** The department may not enter  
17 into a contract under sub. (6m) with respect to the purchase of a proposed  
18 conservation easement if the department's share of the purchase costs and  
19 transaction costs would exceed \$750,000 unless it first notifies the joint committee  
20 on finance in writing of the proposal. If the cochairpersons of the committee do not  
21 notify the department within 14 working days after the date of the department's  
22 notification that the committee has scheduled a meeting to review the proposal, the  
23 department may enter into the contract. If, within 14 working days after the date  
24 of the notification by the department, the cochairpersons of the committee notify the  
25 department that the committee has scheduled a meeting to review the proposal, the

1 department may enter into the contract only upon approval of the committee. A  
2 proposal as submitted by the department is approved unless a majority of the  
3 members of the committee who attend the meeting to review the proposal vote to  
4 modify or deny the proposal.

5 (6m) CONTRACT WITH COOPERATING ENTITY. Subject to subs. (6d) and (6h), after  
6 a cooperating entity complies with sub. (6) and the department determines that the  
7 proposed instrument of conveyance complies with sub. (7), the department and the  
8 cooperating entity may enter into a written contract that specifies the terms and  
9 conditions of the department's participation in the purchase of the proposed  
10 agricultural conservation easement. The cooperating entity shall agree to pay the  
11 full purchase cost and the transaction costs related to the purchase of the proposed  
12 agricultural conservation easement, subject to reimbursement under sub. (9) of the  
13 department's agreed upon share of the costs.

14 (7) PURCHASE OF EASEMENT. After a cooperating entity has entered into a  
15 contract under sub. (6m), the cooperating entity may, in accordance with the  
16 contract, purchase the agricultural conservation easement on behalf of the  
17 cooperating entity and the department if the agricultural conservation easement  
18 does all of the following:

19 (a) Prohibits the land subject to the agricultural conservation easement from  
20 being developed for a use that would make the land unavailable or unsuitable for  
21 agricultural use.

22 (b) Continues in perpetuity.

23 (c) Provides that the cooperating entity and the department, on behalf of this  
24 state, are both holders of the agricultural conservation easement.

1 (d) Prohibits any holder of the agricultural conservation easement other than  
2 the department from transferring or relinquishing the holder's interest without 60  
3 days' prior notice to the department.

4 (e) Complies with any other conditions specified in the contract under sub.  
5 (6m).

6 (8) ACCEPTANCE AND RECORDING OF EASEMENT. A cooperating entity that  
7 purchases an agricultural conservation easement under sub. (7) shall submit the  
8 agricultural conservation easement to the department for its acceptance. Upon  
9 acceptance by the department, the cooperating entity shall promptly record the  
10 agricultural conservation easement and acceptance with the register of deeds of the  
11 county in which the land subject to the agricultural conservation easement is located  
12 and shall provide to the department a copy of the recorded instrument conveying the  
13 agricultural conservation easement, certified by the register of deeds under s. 59.43  
14 (1) (i).

15 (9) PAYMENT. The department shall reimburse a cooperating entity for the  
16 department's agreed upon portion of the purchase cost and transaction costs related  
17 to the purchase of an agricultural conservation easement after the cooperating entity  
18 does all of the following:

19 (a) Complies with sub. (8).

20 (b) Submits documentation showing that any material title defects have been  
21 eliminated and any materially conflicting property interests have been eliminated  
22 or subordinated to the agricultural conservation easement, as required by the  
23 contract under sub. (6m).

24 (c) Submits proof of the amount of the purchase cost and transaction costs that  
25 the cooperating entity has paid, consistent with the contract under sub. (6m).



1           **(10) TRANSFER OR RELINQUISHMENT OF HOLDER'S INTEREST.** The transfer or  
2           relinquishment of another holder's interest does not affect the department's interest  
3           in an agricultural conservation easement.

4           **(11) ENFORCEMENT OF EASEMENT.** The department or any other holder of an  
5           agricultural conservation easement purchased under this section may enforce and  
6           defend the agricultural conservation easement.

7           **(12) RECORD OF EASEMENTS.** The department shall maintain a record of all  
8           agricultural conservation easements purchased under this section.

9           **(13) COUNCIL.** The department shall appoint a council under s. 15.04 (1) (c) to  
10          advise the department on the administration of this section.

11          **(14) RULES.** The department shall promulgate a rule, consistent with sub. (1m)  
12          (i), relating to allowable transaction costs for the program under this section.

13          **SECTION 1978.** 94.38 (3) of the statutes is repealed.

14          **SECTION 1979.** 94.38 (4) of the statutes is repealed.

15          **SECTION 1980.** 94.38 (4m) of the statutes is repealed.

16          **SECTION 1981.** 94.38 (5) of the statutes is repealed.

17          **SECTION 1982.** 94.38 (6) of the statutes is repealed.

18          **SECTION 1983.** 94.38 (8) of the statutes is amended to read:

19          94.38 (8) "Labeler" means any person who as grower, processor, jobber,  
20          distributor or seller labels seed or accepts responsibility for labeling information  
21          pertaining to any container or lot of agricultural seed or vegetable seed and whose  
22          name and address ~~is~~ are required by the department by rule to appear on the label  
23          ~~under s. 94.39.~~

24          **SECTION 1984.** 94.38 (9) of the statutes is repealed.

25          **SECTION 1985.** 94.38 (12) of the statutes is repealed.