



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

DATE: November 18, 2013

TO: Bruce Hoesly, Legislative Reference Bureau
1 East Main Street, Suite 200

FROM: Ben Brancel, Secretary

**SUBJECT: Ch. ATCP 49 - Wisconsin Farmland Preservation Program; Final Rule
(Clearinghouse Rule #13-003)**

The Department of Agriculture, Trade and Consumer Protection (DATCP) hereby submits the following rule for publication:

CLEARINGHOUSE RULE #: 13-003

SUBJECT: Farmland Preservation Program

ADM. CODE REFERENCE: ATCP 49

DATCP DOCKET #: 12-R-03

We are enclosing a copy of the final rule, as adopted by DATCP. We are also providing the following information for publication with the rule, as required by s. 227.114(6), Stats.

Business Impact Analysis (Summary)

This rule will have a generally positive impact on agriculture-related businesses of all sizes, including farms. This rule will have no negative impact on non-agriculture related businesses. This rule affects businesses in the following ways:

Farmland Preservation Plans

- As part of the farmland preservation planning process, ch. 91, Stats., counties are required to describe the rationale used for determining the farmland preservation area. This rule clarifies that the rationale must be based on objective criteria related to characteristics of the land parcels themselves, including the proximity of parcels to agricultural infrastructure and the historical use of the land for agriculture-related purposes. As part of the farmland preservation planning process, counties are required to inventory and evaluate agriculture-related businesses and services, including agricultural production and enterprises

Agriculture generates \$59 billion for Wisconsin

2811 Agriculture Drive • PO Box 8911 • Madison, WI 53708-8911 • 608-224-5012 • Wisconsin.gov

An equal opportunity employer

related to agriculture. This process helps to ensure that agriculture-related businesses can be measured within the community and aids counties as they continue to plan for the presence of these businesses.

Farmland Preservation Zoning

- Chapter 91, Stats., allows a political subdivision to locate accessory and agriculture-related uses within a certified farmland preservation district. This rule provides guidance as to the types of uses that may be considered accessory and agriculture-related.
- Accessory uses, under the rule, include facilities for storing, processing, selling, and housing agricultural products. Such uses primarily support agricultural activities occurring on the farm. These uses can make it possible for a farm to generate income through direct-to-consumer sales, such as a roadside farm, or can add value to a product produced on the farm, such as a cheese processing facility. The rule also specifies that an accessory use may include those uses that generate income yet do not conflict with (or may be enhanced by) the farm operation. Listed uses include crop mazes, agricultural tourism, and you-pick operations. The clarification of permissible accessory uses facilitates the inclusion of agricultural businesses, particularly small agricultural businesses, within the farmland preservation district.
- The rule also clarifies that agriculture-related uses include facilities that support agriculture even though the use itself may not be located on a farm. Such uses include facilities that primarily provide agricultural supplies, agricultural equipment, fertilizers, pesticides or other agricultural inputs, or other agricultural services directly to farms. These uses also include manure digesters, facilities that slaughter livestock, and agricultural processing plants. The rule clarifies that political subdivisions may include within a farmland preservation zoning district businesses that support agriculture. Allowing such businesses to locate within a farmland preservation district helps provide these businesses with a potential customer base and may add additional economic certainty to farmers with land in the certified farmland preservation district.

Farmland Preservation Agreements

This rule clarifies that the department may deny an application for a farmland preservation agreement if the department determines that the agreement would conflict with the goals of the agricultural enterprise area program or would impair or limit agricultural uses on other lands in the agricultural enterprise area.

Comments from Legislative Committees (Summary)

On July 10, 2013, DATCP transmitted the above rule for legislative committee review. The rule was assigned to the Assembly Committee on Agriculture and the Senate Committee on Agriculture, Small Business, and Tourism. Neither committee took action. The Assembly referred the rule to the Joint Committee for Review of Administrative Rules (JCRAR) on August 22, 2013 and the Senate referred it to JCRAR on September 3, 2013. JCRAR took no action on the rule.