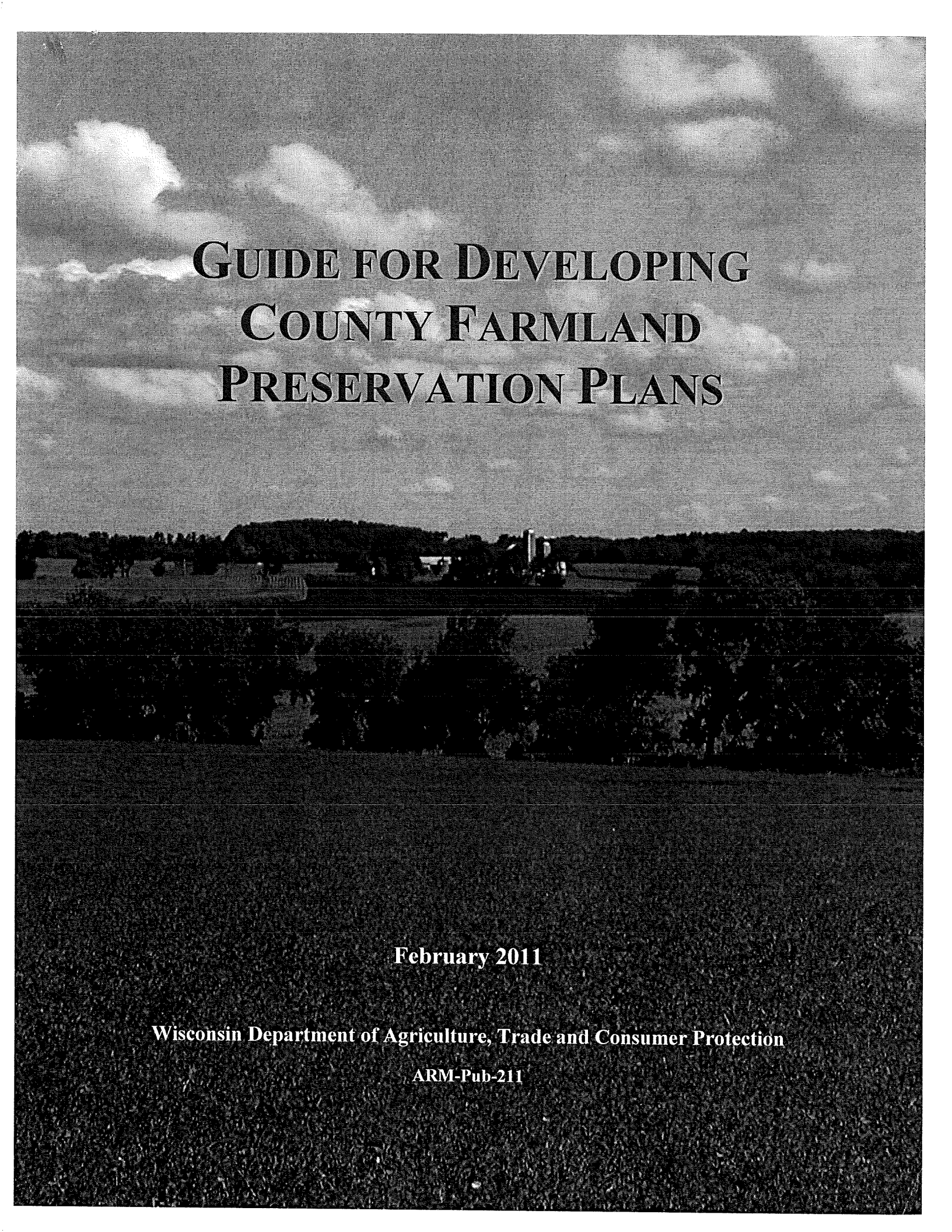




GUIDE FOR DEVELOPING COUNTY FARMLAND PRESERVATION PLANS

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Wisconsin Department of Agriculture, Trade and Consumer Protection

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ABBREVIATIONS

DATCP – Department of Agriculture, Trade and Consumer Protection
 FP – Farmland Preservation
 WL/WLI – Working Lands/Working Lands Initiative

PART ONE: INTRODUCTION

Agriculture is a vital part of Wisconsin's economy and cultural identification. In 2010, agriculture constituted a \$59 billion industry in Wisconsin. Despite its importance, agriculture faces many challenges. Farmland around the country is being lost at an alarming rate, and once it is gone we can not get it back. In the *Farming on the Edge* report released by American Farmland Trust it was estimated that one acre of farmland in the United States is lost every minute. In Wisconsin this translates into the approximate loss of 22,500 acres of productive farmland a year to development. Locally measured rates of farmland conversion are typically higher than population growth rates in many regions, indicating that patterns of development and land use, not population pressure alone, contribute significantly to farmland loss.¹

Because of the economic importance of agriculture in Wisconsin and the potential for the continued loss of our agricultural land base, farmland preservation planning is crucial to preserve important agricultural land remaining in the State. Although well crafted farmland preservation plans may not necessarily restrict the rate of land development; they can help to redirect development towards more appropriate areas, preserve prime farmlands, promote balanced growth, and keep infrastructure costs low, while strengthening local economies and protecting the environment.

Wisconsin's Working Lands Initiative

In order to address the loss of Wisconsin's most productive agricultural lands and to promote the economic development of agriculture, the Working Lands Initiative (2009 Wis. Act 28) was approved by the legislature and signed into law by Governor Jim Doyle in late June 2009. The Act revised the state's existing Farmland Preservation Program (FP Program) and created new programs, including the Agriculture Enterprise Areas (AEAs) and Purchase of Agriculture Conservation Easements (PACE) programs.

Revision to the existing farmland preservation program includes development of new standards for farmland preservation planning. Many of the farmland preservation plans (FP plans) developed under the original farmland preservation program haven't been updated since the 1980s. Since that time, much has altered in the demand for agricultural land, and the industry itself has gone through many changes. Although those original plans initially helped to protect agricultural lands, updates are essential to ensure that they reflect current trends and development pressures. In addition, plan updates are necessary to ensure eligible farmers can collect income tax credits and participate in the newly established PACE and AEA programs.

Under 2009 Wis. Act 28 found in Chapter 91 of Wisconsin State Statutes, (ch. 91, Wis. Stats.) changes to farmland preservation planning include:

- Modernizing farmland preservation plans to meet current land use challenges
- Providing planning grants to counties to assist with the costs of developing updated farmland preservation plans

¹ This is the average net farmland acreage lost per year to urban and other built-up uses for Wisconsin from 2002-2007 based on most recent NRCS National Resources Inventory data.

Counties have the option of submitting a written request to the Secretary of Agriculture, Trade and Consumer Protection for an extension of up to two years after the scheduled date of expiration. This extension may be granted if the delay would allow for the concurrent development of the farmland preservation plan with a comprehensive plan or with an update to a comprehensive plan (s. 91.14 (4), Wis. Stats.).

The WLI also offers planning assistance grants to counties. Grants of up to 50% of eligible costs, but no more than \$30,000, are available to help cover the costs associated with the farmland preservation plan updates. These costs include consultant fees, staff time, and other eligible costs. Counties with earlier expiration dates for their plans will be given grant priority for that grant year.

Using this Guide

This guide has been developed as a reference for the development of a county farmland preservation plan for certification by the Wisconsin Department of Agriculture, Trade and Consumer Protection under the Working Lands Initiative. To obtain state certification, counties must meet all statutory requirements found in s. 91.10, Wis. Stats. These requirements have been included for reference in Appendix A. The instructions and application for plan certification are available at: http://datcp.wi.gov/Environment/Working_Lands_Initiative/Farmland_Preservation_Planning/index.aspx.

Part Two and Part Three of this document are intended to provide guidance on specific plan components, to answer some frequently asked questions, and to help identify possible roadblocks to plan certification. In developing a plan that meets the statutory requirements, counties are encouraged to design a plan that works best for them, and to include any unique information that may be beneficial to their local planning for agriculture.

Counties are encouraged to contact DATCP at DATCPWorkingLands@wisconsin.gov as they begin to develop the farmland preservation plan for assistance with the plan certification process.

PART TWO: FARMLAND PRESERVATION PLAN DEVELOPMENT

Why Plan for Agriculture?

Under the Working Lands Initiative, the previous Farmland Preservation (FP) Program has been refashioned. The Working Lands Initiative creates a new higher per acre tax incentive for farmland owners who participate either through a Farmland Preservation zoning ordinance or an individual farmland preservation agreement located within an Agriculture Enterprise Area (AEA).² It also establishes a Purchase of Agricultural Conservation Easements (PACE) program which supplements locally sponsored funds for voluntary permanent purchase of development rights on qualifying farm parcels. All of these benefits are available only on lands designated for long-term farmland preservation in certified county FP plan areas.

Beyond the formal benefits provided by statute for adoption and certification of a county FP plan, the process itself offers a great, and perhaps rare, opportunity to engage your local community in planning for agriculture. In the past, agricultural land has been treated in many land use plans as a holding area for eventual developed uses. Where planning has occurred for local agriculture, too frequently the plan treats the farm economy as an interim use, eventually making way for other uses. Agricultural land often lacks a legal underpinning to protect it, even relative to wetlands and other natural areas, which are often explicitly protected under federal or state law. The opportunity to plan for agriculture has been available under the Smart Growth statute's grant incentive for local governments to adopt comprehensive plans over the last 10 years, and many local comprehensive plans did use that process to develop an agricultural component. However, there is limited mention of agriculture in the comprehensive plan statute, (s. 66.1001, Wis. Stats) and no state guidance on why or how a locality or region might plan for long-term ag preservation. In addition, agriculture is not mentioned in discussion of the comprehensive plan component for economic development (see s. 66.1001(2)(f), Wis. Stats.)

Planning for long-term farmland preservation and for the economic development of agriculture can help identify and preserve a sufficient land and infrastructure base needed to support agriculture. A plan that understands and addresses the needs of farm owners and agriculture-related business can insure predictability and security for these business owners. Well thought-out plans also help minimize conflict from incompatible land uses, while protecting the rural heritage that has long defined Wisconsin. Planning for agriculture can also contribute to other goals, such as preserving wildlife habitat areas and maintaining groundwater recharge areas.

The new Working Lands program provides an opportunity for community residents in each county to engage in a real examination of the role agriculture currently plays there, as well as the future roles it might play. Because the current global recession has acted like a temporary moratorium to ease development pressure on farmland, it is a particularly good time to thoughtfully plan for agricultural preservation. In addition to recognizing the economic dimension of agricultural planning, it is important that county and town planners consider the many social, ecological and scenic dimensions of agricultural preservation.

² See publication "Farmland Preservation Tax Credits" (*ARM-Pub-205*) for more information.

Meeting Statutory Requirements

In order to obtain certification of a county FP plan, the plan must meet the statutory requirements identified in s. 91.10, Wis. Stats.³ By addressing the requirements clarified in the statute, the county can identify and explain current agricultural issues and trends and plan for future needs. In many instances, maps or other graphic representations may be used to meet a specific requirement. In addition, taking the time to gather information and feedback from the public can greatly enhance a county FP plan. Local landowners can provide first-hand information on the current conditions and trends, and can be vital contacts.

Prior to starting FP plan development, familiarize yourself with the requirements in s. 91.10, Wis. Stats and review the application materials for plan certification to ensure that you understand what information must be included in the FP plan.

Population, Housing and Municipal Growth. Under the new law, the FP plan must include policies, goals, strategies and proposed actions to increase housing density in areas other than those identified for farmland preservation. In order to do this, it is important to have an understanding of population demographics and local trends in housing and other real estate markets. Information on housing trends may be gathered through an analysis of data on plats and certified survey maps, new construction starts, property assessments, rentals, and building and rezoning permit applications, as well as the Realtors Association Multiple Listing Service. Information on household size and demographics, zoning and subdivision regulation of lot sizes and housing density, and GIS maps showing parcelization patterns will also be useful.

County farmland preservation plans are not intended to prevent non-agricultural development within the county. Rather, the idea is to limit non-agricultural development in areas with favorable conditions for agricultural enterprises, and target other areas for non-agricultural development. Remember that any area slated for non-agricultural growth within the next fifteen years may not be included in a farmland preservation area. Therefore, as part of the planning process, it is important to identify areas where incorporated municipal areas may expand.

Agricultural Resources and Agricultural Land Uses. The vitality of agriculture in the county depends upon the resources available to support agricultural land use. Counties need to identify the availability and locations of pasture/grazing land, cropland, and forested lands. Other helpful information includes soil type, topographic information, and availability and type of water resources. The consideration of these resources can aid in developing rational criteria for identifying areas for farmland preservation.

Under the new Working Lands program, it becomes more important to refine the analysis of agricultural land uses in the county. This analysis should include not only the number, size and locations of farms in the county, but also the type of farm operations, and their economic linkages to other farms, markets and farm infrastructure. This involves not only the type of crops, whether conventional or specialty, but how the farms depend on feed operations and other input sources, custom work, contracting, later processing stages and ultimate markets. Larger trends in agricultural economics and agricultural land use at the international and regional scale would also be a useful part of the planning discussion as these trends may impact the future nature,

³ An excerpt of the statutory requirements for development of a county FP plan can be found in Appendix A.

scope, location and focus of local agricultural production. Examples of trends might include farm consolidation, product type and processing chains, input types and sources, changes in ownership and the age of operators, and competition of other uses for farm acreage.

Economic Growth and Business Development. Identification and analysis of the economic generators in the county, including information on employment, wage rates and average per capita income by industry sector, can help to outline economic conditions in the county. As a part of this analysis, consider information about planned or potential areas for agricultural-related business development, not just commercial uses in general. Look at existing commercial and industrial areas to assess where and how to focus further development in order to best avoid farmland preservation areas and cluster ag-related businesses near to farmland.

It is also useful to consider off-farm employment and commuting patterns as these may contribute heavily to decisions of what type of farming is engaged in and are often a major source of farm family income and health and retirement benefits.⁴ An inventory of trends in the number, composition, skill levels, seasonality, and wage levels of jobs in the regional labor market is also relevant to the discussion of maintaining farm operations and growing agricultural businesses.

Utilities, Infrastructure and Community Facilities. As part of the FP plan, the county is asked to provide information on the utilities and key agricultural infrastructure in the county, including; utilities for electricity, natural gas, and water; transportation; processing, storage and supply; energy; communications; and waste management. Like other economic sectors, the agricultural community depends upon these to maintain their agricultural businesses. As part of this discussion, consider how the existing infrastructure location and capacity supports the county's goals for agricultural preservation and development and what future needs might be. Counties may also wish to consider the specific transportation needs and concerns of the farm community, including which roads are posted for weight limits, the condition of railheads, and safety conflicts with nonfarm traffic.

Natural Resources. FP plans should include information regarding natural resources areas and environmental corridors. This information may be presented in map form. Ideally, the FP plan will include a map of all existing land uses.

Programs and Actions for Farmland Preservation and Agricultural Development. The county farmland preservation plan should act as a reference guide for preserving farmland at both the county and local levels. Consider various strategies to implement the FP plan once it is adopted. This may include information about other state or federal programs and funding sources, as well as allied strategic resources and locally developed programs.

⁴ Data on off-farm employment and commuting patterns for different farm types are useful since, in 1997, 89% of farm household income nationally was derived from off-farm sources. (USDA, Economic Research Service) 40 percent of Wisconsin farm operators work over 200 days a year off the farm. (Census of Ag – County Data: 2007, Wisconsin, Table 1)

Incorporating Agricultural Economic Development Planning

Under the new Working Lands version of the FP Program, the focus of the planning requirements for certification includes agricultural economic development as much as preservation of agricultural land (s. 91.10(1)(a)). Therefore, it is important to examine and use data that addresses both the agricultural economy and agricultural land preservation. Counties may find that the census data and information from the Wisconsin Agricultural Statistics Service (WASS) is helpful, but there are many other sources of information that will help inventory and plan for the local agricultural economy. Although the depth of analysis and planning is up to the discretion of the county, the statutes are explicit in the need to plan for both agricultural preservation and agricultural economic development.

For those counties seeking to make the most of this planning opportunity, there are a wide range of opportunities for the economic development of agriculture. Some examples include;

- Development of farm owner networks
- New joint farm infrastructure ventures
- On-farm and value-added processing of farm products
- Diversification options for new or alternative farm products, both food and non-food options
- New options for marketing of farm products; niche marketing
- Development of agricultural tourism

In identifying opportunities for agricultural economic development, it is important to analyze the existing farm infrastructure and the potential for expansion to meet future needs. The farm infrastructure and capacity analysis could be done at a town, multi-town, county or regional level. As part of this analysis, document the location and capacity of existing networks of farm cooperatives, suppliers, transporters, buyers and processors. Also consider both large-scale economic trends and evidence of local farm investments. This analysis can be used in determining the feasibility of other opportunities such as establishment of new facilities, such as an ethanol or cheese processing plant, or to ensure that there is adequate land base to handle nutrient management needs of area farmers.

Use of Survey Data to Inform Planning for Agriculture

Although not required in Chapter 91, conducting a survey of the local farm community would enhance your planning efforts. This type of survey of current farm operations, and their requirements and needs, can create real specificity and relevance for your FP planning.

The survey of existing farm operators can indicate what is being produced and for whom; what is being bought, and from whom; and what alternative products could potentially be produced on existing farms locally. The survey can also aid in creating an inventory of existing agricultural support services. It is also worth examining overall community attitudes about how the presence of an agricultural landscape might contribute to ecological services, property values, lowering local tax rates, and the quality of life in a community – all features that might make an area more attractive for nonfarm businesses and their employees. Additional information to inventory includes: the existing agricultural skills; the local exchange of labor among farm operations at

critical times of year; the presence of agricultural support services like veterinarians, grain storage facilities, implement dealers, rail heads, and farmers' markets.

A survey of current farm operations can serve two broad purposes depending on what is acceptable to the farm community itself: 1) Information on farm requirements, plans and needs can be aggregated without identifying individual farm operations, especially in sensitive matters like net farm income, debt levels, and intentions for the farm operation; or 2) information can include specifics on each individual farm operation, at least in certain categories necessary in order to enable farmers themselves to share and match services, resources and operation needs with other farmers through match/link networking. Such community-enabled networking could be useful for many reasons. This type of networking could allow information sharing on various specific farm problems between operators or bring together operators who have specific complementary operational needs (e.g. inputs required vs. outputs disposed of; leasing or providing custom work; buying/leasing/selling/swapping land or other items. Farmer networking could also facilitate shared problem-solving and the creation of forums for joint product niche marketing, investment, leasing, buying, networking or lobbying.

Defining Farmland Preservation Areas

One of the key requirements for development of a FP plan is to clearly identify farmland preservation areas. Any "farmland preservation area" should be identified for farmland preservation through the development of a fact-based rationale which is consistent with the area clearly mapped in the plan. Lands identified in the farmland preservation area must either be devoted to primarily agricultural use, and/or primarily agriculture-related uses, however natural resource and open space areas may also be included. The FP plan must include a description of the criteria and rationale used to map the location of the FP areas. Keep in mind that while lands expected to convert to non-agricultural development within 15 years must be excluded from these FP areas (and any future FP zoning district), this is not the case for agricultural types of development, as typified by, though not limited to, "agricultural-related uses" as defined by statute (s.91.01 (3), Wis. Stats).

Under the previous FP program, qualifying landowners of farmland in transition areas, those currently in agricultural use but planned for eventual development, were allowed to receive tax credits. This encouraged local governments to include as much land as possible within mapped FP areas of the certified FP plans. Under the new WL program, the situation is reversed. Transition areas – at least those where non-agricultural development is expected to occur within 15 years from the date of plan adoption – are excluded from mapped FP areas, and landowners within them cannot collect tax credits. In this respect, as well as in the provisions for stricter standards in order for land to be rezoned (and the conversion fee to be paid on farmland rezoned from a FP district) the new WL program discourages inclusion of lands in FP areas unless such lands are meant to stay in these areas permanently or very long-term.

Counties have a great deal of flexibility when designating farmland preservation areas, as long as they meet all of the farmland preservation planning standards. For example, focusing on the best prime farmland and soils is an important consideration because they are the most productive and require the fewest inputs in order to make them productive. However, productive farmland does

not rely strictly on the presence of prime soils.⁵ Therefore, it is often standard procedure to include existing farm areas and other aspects of farm location as part of the criteria for what is to be preserved. Adjustments as a result of location may include: small isolated areas where access is limited; areas where artificial drainage is limited; floodplains; forested areas; areas of high productivity surrounded by areas of much lower productivity; areas of low productivity surrounded by areas of much higher productivity; irrigation potential; and large level tracts that sell at a premium.⁶

There are many other criteria that may be used to aid in prioritizing agricultural land and working farms for preservation. Other considerations used to distinguish how individual parcels are ranked might include multiple ecological services such as groundwater recharge, soil and nutrient runoff reduction to downstream waters, habitat preservation; cultural and aesthetic values related to “rural character” and rural lifestyle preservation, scenic views and tourism; regional food security; and as an adjunct to “smart growth” practices designed to encourage denser patterns of housing development and reduce community public service costs. Such objective criteria can be used to refine decisions and mapping criteria, when the planning process leads to conflicts with the land needs for other legitimate community uses.

Overall, the rationale for inclusion of lands must be objective. While the needs, intentions and preferences of farm operators are valid and important inputs, just as are the attitudes of non-farmers, as part of the overall municipal or county plan process for agriculture, it is not acceptable to base boundaries of mapped farmland preservation areas primarily on landowner preferences as to whether they wish their land to be included or not. Where there is direct or indirect evidence of such “voluntary planning,” plan certification will be rejected.

This highlights the importance for each county to be able to document what reasonable objective criteria were used to include or exclude any given parcel on the FP map. These criteria must be internally consistent. In particular, where counties rely on a compilation of independently derived FP map boundaries for each town, they may run into difficulty getting the compiled county FP map certified if the boundaries in each town are not based on mutually consistent criteria.

In addition, this careful consideration of identifying FP areas through the mapping process also has direct implications on other aspects of the FP program. Farmland preservation zoning districts (exclusive agriculture zoning), or Purchase of Agriculture Conservation Easements (PACE) and Agricultural Enterprise Areas (AEA) may only be located within certified farmland preservation areas.

It is also important that the mapped areas in the plan match objectively stated mapping criteria, and have a relationship to specific local plan objectives and documented data. Strategic objectives and implementation methods identified in the plan should be supported by the data

⁵ The significance of land failing to be classified as prime is open to question: “...in Whitman County, Washington, only 2.8 percent of the land is in the prime category. Most of this land is excluded from the prime category because of steep slopes and high erosion potential. Yet, Whitman is the most productive wheat county in the nation, and most land in the county is under cultivation.” (Steiner, Dunford, et.al., 1984, 4) “Much of the nation’s corn crop is produced on soils that in their natural state have severe limitations for growing corn.” (McCormack, 1974, 261)

⁶ Carver and Yahner, 1996.

inventory used for the plan's development. It is recommended that planners seek to operationalize plan goals into consistent, prioritized and quantitatively measurable objectives where possible. This will lead to more effective and defensible mapping of FP areas and later, of resulting zoning districts. None of this is strictly required by Chapter 91, but doing this will be to the advantage of each community.

Ensuring Plan Consistency

Consistency between the FP plan and other local plans and related ordinances is a critical consideration during plan development. The following section describes the relationship of the county's FP plan to the county comprehensive plan (if one exists) and the FP plan's relationship to any existing or future farmland preservation zoning ordinance (formerly known as an Exclusive Agricultural Zoning Ordinance). In developing the county FP plan, you may find it beneficial to identify different types of farmland preservation areas to identify the varying agricultural land uses within the county. Guidance on planning for different types of agricultural areas can also be found in this section.

Relationship to the county comprehensive plan. Under the old Farmland Preservation program, certification reviews looked at whether the FP plan submitted was consistent with comprehensive plans for the area, and when inconsistencies were found, asked for a strategy to resolve the inconsistencies. However, the presence of inconsistencies did not generally affect plan certification. Under the new Ch. 91, a FP plan, or FP plan map amendment, is a part of the county comprehensive plan and must be consistent with other parts of the comprehensive plan. (see s. 91.10 (2), Stats.). Guidance for planning for long-term agricultural preservation is limited in the comprehensive plan statute, (s. 66.1001, Wis. Stats.) and there is no guidance for considerations of the economic development of agriculture. Nevertheless, over the last 10 years, many of the comprehensive plans developed do contain a component addressing agriculture, particularly in parts of the state where agriculture is a major part of the landscape. Often such plans were done without taking into account the requirements of Chapter 91. Therefore, reconciling inconsistencies that a new county FP plan may have with existing comprehensive plans can be problematic and requires close examination.

Since the FP plan is now part of a corresponding county comprehensive plan (if one exists), there are several new consequences. First, for a county to adopt a FP plan, or plan amendment, now it must follow the same procedures under s. 66.1001(4) that it would use for adoption of a comprehensive plan itself. (see s. 91.10(3), Stats.) This should be taken into consideration in estimating the time required to complete certification and local adoption of a new FP plan when there are end-of-year constraints affecting tax credit eligibility.

Second, if a county (or town) wishes to adopt a farmland preservation zoning ordinance, the zoning ordinance map must be substantially consistent with the existing certified FP plan. Because the FP plan must be consistent with the county comprehensive plan, if any, the zoning ordinance must be consistent with the comprehensive plan as well. This consistency of the zoning ordinance with the comprehensive plan is required in any case after January 1, 2010 by s. 66.1001 (3), Stats.

Third, it means that DATCP may decline to certify a FP plan that is inconsistent with other parts of the comprehensive plan. This problem typically arises when a proposed FP plan map is inconsistent with an existing comprehensive plan map (for example, when the same land is mapped for farmland preservation in an FP plan map but is mapped for development in an existing comprehensive plan map). The county may reconcile such inconsistencies by either modifying the FP plan, modifying the existing comprehensive plan, or clarifying that the FP plan supersedes the comprehensive plan in the case of the inconsistencies. Since the FP plan must be adopted as part of the comprehensive plan, language stating that the FP plan supersedes inconsistent portions of the comprehensive plan may be adopted by the county at the same time that the FP plan (amendment to the comprehensive plan) is adopted. This language must be included in both the FP plan (typically the plan map) and in the inconsistent portion(s) of the comprehensive plan (typically the inconsistent comprehensive plan map), so that readers will not rely to their detriment on a superseded map or plan provision.⁷

Ch. 91 recognizes only county FP plans in the certification process, not town or other municipal plans. (see s. 91.91(17), Stats.) County comprehensive plans, defined by statute as development plans prepared under s. 59.69(2) or (3), (see s. 66.1001(1) (a)1.Stats.), must incorporate the master plans of cities or villages adopted under s.62.23(2) or (3) “without change” (see s. 59.69(3)(b), Stats., which “shall control in unincorporated territory in a county affected thereby” (see s. 59.69(3)(e), Stats.) However, the same provision exists for comprehensive plans of towns which have adopted village powers under s. 60.22(3), Stats. (see s. 66.1001(1)(a)2., Stats.) Therefore, both a city or village master plan, and the master plan of a town with village powers may both control in the same unincorporated territory, and it is not clear which would have precedence legally. From DATCP’s point of view, however, for the purposes of the FP program, the county FP plan for unincorporated territory takes precedence over any other land use designation in the county comprehensive plan, whether based on a city or village’s master plan or that of an affected town.

Relationship to farmland preservation zoning ordinances. Under the new version of Ch. 91, Wis. Stats, adopted July 1, 2009, to achieve certification, the zoning map must be “substantially consistent” with any certified farmland preservation plan (FP plan) in that county.

When reviewing zoning ordinance maps for consistency with a FP plan certified prior to July 1, 2009, the department generally relies on a rough rule of thumb that requires the zoning map to be at least 80% consistent with the farmland preservation areas identified in the FP Plan. Other considerations in department reviews that may lead to a different level of consistency include the age of the plan; the geographic pattern of inconsistent uses (i.e., scattered versus concentrated); the extent to which the inconsistencies reflect already existing developed uses; the type of land use and the reasons for being inconsistent (for example, inconsistent conservation areas do not have the same detrimental effect on FP areas as adjacent development would).

To achieve “substantial consistency,” under the new Chapter 91, a revised zoning ordinance map may continue to identify agricultural transition areas as long as the old certified FP plan map remains in effect. Since transition areas are no longer allowed under the new law, land can not be added to these existing areas in this instance, but they may be removed.

⁷ To see suggested language, view the application for plan certification at <http://workinglands.wi.gov>.

As counties update FP plans for certification under the new Working Lands Initiative, the department will apply a more stringent standard. It may require new zoning maps to be closer to 100 percent consistent with the farmland preservation areas in the most recently certified FP plan.

It is important to note that while all land in a farmland preservation district must be in a farmland preservation area, not all land in a farmland preservation area needs to be included within a farmland preservation zoning district. The following are examples of allowable exclusions that would not affect the determination of a zoning map's "substantial consistency" with a FP plan. This list is not comprehensive and the local government may identify other appropriate reasons to exclude planned area from a certified district.

- ◆ Small pockets of existing development may be excluded from FP zoning districts, even if they are retained in FP plan areas.
- ◆ Uses such as agriculture-related infrastructure may be excluded from zoning districts even though retained in FP plan areas.
- ◆ Environmental and natural resource areas may be excluded from zoning districts even though retained in FP plan areas when not intended or suitable for farming.

Planning for different types of agricultural areas. You may choose to designate different types of FP plan areas on the FP plan map submitted for certification. These different types of areas may be customized for various types or scales of compatible land uses. However, keep in mind that any future designated zoning districts for each of these areas will need to be consistent within each type, thereby limiting the potential flexibility in defining such districts.

Not all the area that is identified as a FP plan area in the FP plan needs to be included in the FP zoning district. The ordinance may still be considered "substantially consistent" even if some of the area is left as general agriculture. The exclusion of land from the FP zoning district cannot, however, be the result of "voluntary zoning." Excluding land from the FP zoning district must be objectively based on criteria stated in the FP plan. A map with an excessively scattered pattern of excluded land suggests that voluntary zoning has occurred.

PART THREE: FARMLAND PRESERVATION PLAN CERTIFICATION

A county must submit an application for plan certification to the state Department of Agriculture, Trade and Consumer Protection. Counties are encouraged to contact the department at DATCPworkinglands@wisconsin.gov when beginning the planning process so that a contact person can be assigned to assist with questions related to plan development and certification. The application materials and instructions for submission can be found online at: http://datcp.wi.gov/Environment/Working_Lands_Initiative/Farmland_Preservation_Planning/index.aspx.

In order to expedite the plan approval and certification process, it is important to ensure that the plan meets all of the minimum standards identified in Chapter 91, Subchapter II of Wisconsin state statutes.

Understanding Plan Approval and Certification

Within 10 business days of receiving an application for certification, DATCP will determine completeness of the application. An incomplete application will not be reviewed for certification, but the applicant will be notified of what is missing. Once DATCP determines the application is complete, the application will be approved or denied within 90 calendar days. During this time DATCP will work with the county to help the county meet all requirements for certification. A plan which is denied may be revised and re-submitted. An approved plan may be certified for up to 10 years.

In order for a plan to be certified for farmland preservation, the same version of the plan must be approved by DATCP and by the county. A plan approved by DATCP can only be certified upon adoption of the same plan by the county. In some instances, a county may wish to submit a county approved plan to DATCP for certification. However it is more typical that county adoption is sought following DATCP approval. Either of these options is acceptable, however, please be aware that a plan is not officially certified until the same plan is approved by both DATCP and by the county.

If county adoption of a plan is sought after DATCP approval, the plan's certification will be "contingent" upon county adoption of the plan as approved by DATCP, without any changes. A deadline for obtaining county adoption of the FP plan will be specified. If this deadline is not met, the plan cannot be certified.

To adopt a farmland preservation plan, a county shall follow the procedures under s. 66.1001 (4) Wis. Stats. for the adoption of a comprehensive plan (s. 91.10 (3) Wis. Stats).

Reviewing for Consistency

If the county has a comprehensive plan, the farmland preservation plan must be consistent with the comprehensive plan and shall be included as part of the comprehensive plan, s. 91.10 (2), Wis. Stats. Prior to submitting an application for certification, the FP plan should be reviewed to ensure that consistency requirements are met.⁸

⁸ See Part II: Guidance for Farmland Preservation Plan Development to review guidance on plan consistency.

It is also critical that the FP plan be internally consistent. Instances of internal inconsistency can lead to delayed certification by DATCP. Examples of internal inconsistency might include: conflicting statements in the plan text; conflicts between plan text and plan map; plan areas described in the text use a different name than plan areas named on the map; reliance on data which is inconsistent with stated policies.

Meeting the Mapping and Spatial Data Guidelines

Guidelines for submitting plan maps can be found in the certification application materials. These discuss how to display the farmland preservation areas intended for certification and how to submit the associated spatial data used to create the farmland preservation plan maps. By receiving uniform spatial data from counties seeking plan certification, the department is better able to track the acreage of FP areas certified, produce more accurate reports, and provide better service to program participants.

Submission of maps and spatial data that do not meet the stated guidelines can delay the certification process. When submitting an application, double check to make sure the maps and spatial data meet the stated guidelines. Pay particular attention to ensure that:

- Map scale is 1 inch = 2,000 feet or less
- Transition areas are no longer included on the farmland preservation plan map
- Any environmental or other overlay areas on the map do not obscure the boundaries or identification of an underlying farmland preservation area. If overlay areas are present in text and map, the overlay areas should be provided as a separate shapefile and include full metadata.
- Any acreage defined as a farmland preservation area by the text of the plan is clearly identified and has an exact corresponding title on the plan map and map legend
- The spatial data is projected in the WTM83 (1991) coordinate system in meters, and includes an attribute table which contains a specific column to identify each farmland preservation area type.
- Metadata is included with the spatial data and written to the “Content Standard for Digital Geospatial Metadata (CSDGM), Vers. 2 (FGDC Metadata Standard)”

The farmland preservation plan map for the county may be submitted as a series of town maps. Areas identified for farmland preservation should include full parcels. Partial parcels should not be included in an area for certification for farmland preservation.

PART FOUR: RESOURCES TO AID WITH PLAN DEVELOPMENT

Publications

Carver, Andrew D. and Joseph E. Yahner. (1996) Defining Prime Agricultural Land and Methods of Protection. Purdue Cooperative Extension Service. AY-283.

Jackson-Smith, Douglas. 2002 Planning for Agriculture in Wisconsin: A Guide for Communities. UW Cooperative Extension and Wisconsin Department of Agriculture, Trade, and Consumer Protection. http://www.doa.state.wi.us/dir/documents/ag_guide.pdf.

McCormack, Donald E. (1974) "Soil Potentials: A Positive Approach to Urban Planning." Journal of Soil and Water Conservation. November-December.

Ohm, Brian W. 1999. Guide to Community Planning in Wisconsin. Madison: University of Wisconsin Board of Regents. <http://urpl.wisc.edu/people/ohm/communityplanninginwi.pdf>

Steiner, Frederick R., Richard W. Dunford, et.al. (1984) "The Use of the SCS Agricultural Land Evaluation and Site Assessment (LESA) System in Whitman County, Washington." Landscape Journal. Vol.3. No.1.

Internet Resources

American Farmland Trust (AFT). Farmland Information Center website. <http://www.farmlandinfo.org/>.

Center for Land Use Education, U.W.-Stevens Point. <http://www.uwsp.edu/cnr/landcenter/>

Department of Agriculture, Trade and Consumer Protection. Business Resources. http://datcp.wi.gov/Business/Business_Resources/index.aspx.

Land Evaluation and Site Assessment. For more information, the LESA guidebook can be found at: <http://www.nrcs.usda.gov/programs/lesa/>.

The University of Wisconsin Center for Community and Economic Development. Information on "Growing Local Economies." <http://www.uwex.edu/ces/cced/economies/index.cfm>.

The Wisconsin Page. Wisconsin Maps and Geographic Information Systems Resources. http://www.uwsp.edu/geo/wisconsin/wisconsin_maps.htm

Wisconsin Department of Administration Demographic Services. http://www.doa.state.wi.us/section_detail.asp?linkcatid=11&linkid=64&locid=9

Wisconsin Department of Transportation. <http://www.dot.wisconsin.gov/>.

Wisconsin Farmland Website. Partnership of AFT and Gathering Waters Conservancy.
<http://www.wisconsinfarmland.org/>.

USDA Census of Agriculture for Wisconsin.
http://www.nass.usda.gov/Statistics_by_State/Wisconsin/index.asp.

USDA. Farm Service Agency (FSA) Tract & Field Boundary database, based on NRCS Common Land Units (CLU) data.⁹

⁹ After 2008, public access to CLU data was restricted. However, copies of earlier data may still be available from county FSA offices, county land conservation offices, or regional planning commissions.

**APPENDIX A: STATUTORY REQUIREMENTS FOR FARMLAND PRESERVATION PLAN
DEVELOPMENT (S. 91.10, WIS. STATS.)**

91.10 County plan required; planning grants.

91.10(1) By January 1, 2016, a county shall adopt a farmland preservation plan that does all of the following:

- (a) States the county's policy related to farmland preservation and agricultural development, including the development of enterprises related to agriculture.
- (b) Identifies, describes, and documents other development trends, plans, or needs, that may affect farmland preservation and agricultural development in the county, including trends, plans, or needs related to population and economic growth, housing, transportation, utilities, communications, business development, community facilities and services, energy, waste management, municipal expansion, and environmental preservation.
- (c) Identifies, describes, and documents all of the following:
 - 1. Agricultural uses of land in the county at the time that the farmland preservation plan is adopted, including key agricultural specialities, if any.
 - 2. Key agricultural resources, including available land, soil, and water resources.
 - 3. Key infrastructure for agriculture, including key processing, storage, transportation, and supply facilities.
 - 4. Significant trends in the county related to agricultural land use, agricultural production, enterprises related to agriculture, and the conversion of agricultural lands to other uses.
 - 5. Anticipated changes in the nature, scope, location, and focus of agricultural production, processing, supply, and distribution.
 - 6. Goals for agricultural development in the county, including goals related to the development of enterprises related to agriculture.
 - 7. Actions that the county will take to preserve farmland and to promote agricultural development.
 - 7m. Policies, goals, strategies, and proposed actions to increase housing density in areas that are not identified under par. (d).
 - 8. Key land use issues related to preserving farmland and to promoting agricultural development and plans for addressing those issues.
- (d) Clearly identifies areas that the county plans to preserve for agricultural use and agriculture-related uses, which may include undeveloped natural resource and open space areas but may not include any area that is planned for nonagricultural development within 15 years after the date on which the plan is adopted.
- (dm) Describes the rationale used to determine which areas to identify under par. (d).
- (e) Includes maps that clearly delineate all areas identified under par. (d), so that a reader can easily determine whether a parcel is within an identified area.
- (f) Clearly correlates the maps under par. (e) with text that describes the types of land uses planned for each area on a map.
- (g) Identifies programs and other actions that the county and local governmental units within the county may use to preserve the areas identified under par. (d).

- (2) If the county has a comprehensive plan, the county shall include the farmland preservation plan in its comprehensive plan and shall ensure that the farmland preservation plan is consistent with the comprehensive plan. The county may incorporate information contained in other parts of the comprehensive plan into the farmland preservation plan by reference.
- (3) To adopt a farmland preservation plan under sub. (1), a county shall follow the procedures under s. 66.1001 (4) for the adoption of a comprehensive plan.
- (4) The department may provide information and assistance to a county in developing a farmland preservation plan under sub. (1).
- (5) A county shall notify the department before the county holds a public hearing on a proposed farmland preservation plan under sub. (1) or on any amendment to a farmland preservation plan. The county shall include a copy of the proposed farmland preservation plan or amendment in the notice. The department may review and comment on the plan or amendment.
- (6)
- (a) From the appropriation under s. 20.115 (7) (dm) or (tm), the department may award a planning grant to a county to provide reimbursement for up to 50 percent of the county's cost of preparing a farmland preservation plan required under sub. (1). In determining priorities for awarding grants under this subsection, the department shall consider the expiration dates for plan certification under s. 91.14.
- (b) The department shall enter into a contract with a county to which it awards a planning grant under par. (a) before the department distributes any grant funds to the county. In the contract, the department shall identify the costs that are eligible for reimbursement through the grant.
- (c) The department may distribute grant funds under this subsection only after the county shows that it has incurred costs that are eligible for reimbursement under par. (b). The department may not distribute more than 50 percent of the amount of a grant under this subsection for a farmland preservation plan before the county submits the farmland preservation plan for certification under s. 91.16.

91.10 - ANNOT.

History: 2009 a. 28.