

1 may include a representative of the county land conservation committee. The field engineer may
2 hold the informal meeting in person or by telephone.

3 (c) If an appeal cannot be resolved after an informal meeting under par. (b), the field
4 engineer shall forward the appeal to a department reviewer designated by the administrator of the
5 department's agricultural resource management division. The reviewer shall hold an informal
6 hearing on the appeal within 10 business days after the reviewer receives the appeal, unless the
7 applicant agrees to a later date for the informal hearing. The reviewer shall hold the informal
8 hearing by telephone or at a location determined by the reviewer. Within 10 business days after
9 the conclusion of the informal hearing, the reviewer shall issue a written decision which affirms,
10 reverses or modifies the field engineer's action. The reviewer shall provide a copy of his or her
11 written decision to the applicant. The decision shall include a notice of the applicant's right to
12 request a formal/contested case hearing under par. (d). *m "informal" CC*

13 (d) If an applicant disputes the reviewer's decision under par. (c), the applicant may file a
14 request with the department under s. 227.42, Stats., for a formal contested case hearing under ch.
15 227, Stats., and ch. ATCP 1.

16 (9) SUSPENDING OR REVOKING CERTIFICATION. (a) The department may, for cause,
17 suspend or revoke a certification under this section. The department may summarily suspend a
18 certification, without prior notice or hearing, if the department makes a written finding that the
19 summary suspension is necessary to prevent an imminent threat to the public health, safety or
20 welfare.

1 (b) An order suspending or revoking a certification shall be signed by the secretary or the
2 secretary's designee. Proceedings to suspend or revoke a certificate shall be conducted according
3 to ch. 227, Stats., and ch. ATCP 1.

4 **NOTE:** See ss. 92.18(6) and 93.06(7), Stats.

5 (c) The department shall notify all the following persons of any suspension or revocation
6 under this subsection:

7 1. Any land conservation committee or state agency that employs the individual whose
8 certification is suspended or revoked.

9 2. State and federal agencies that provide cost-share funds for agricultural engineering
10 practices.

11 (d) The reduction of a certification rating under sub. (7) does not constitute a suspension
12 or revocation under this subsection.

13 (10) **CERTIFICATION GUIDELINES.** The department may publish guidelines for the
14 certification of agricultural engineering practitioners under this section. The guidelines may
15 include suggested courses, training activities, and types of knowledge and experience that may
16 help applicants qualify for certification at specified rating levels.

17 (11) **SIGNATURE AND DATE REQUIRED.** Whenever a person certified under this section
18 approves or submits for approval any document related to the design or construction of an
19 agricultural engineering practice under sub. (2), that person shall sign and date that document.

20 **ATCP 50.48 Nutrient management planners.** (1) **QUALIFICATIONS.** To be qualified
21 under this chapter, a nutrient management planner shall be knowledgeable and competent in all
22 the following areas:

- 1 (a) Compliance with the NRCS technical guide.
- 2 (b) Soil testing.
- 3 (c) Calculating nutrient needs on a field-by-field basis.
- 4 (d) Crediting manure, residual legume nitrogen and other nutrient sources on a field-by-
- 5 field basis.
- 6 (e) Using conservation plans.
- 7 (f) Relevant laws related to nutrient management.
- 8 (g) Preparing nutrient management plans according to s. ATCP 50.04(8).
- 9 (2) PLANNERS PRESUMPTIVELY QUALIFIED. An individual is considered a qualified
- 10 nutrient planner under sub. (1), without any action by the department, if all the following apply:
- 11 (a) The individual is at least one of the following:
- 12 1. Recognized as a certified professional crop consultant by the national alliance of
- 13 independent crop consultants.
- 14 2. Recognized as a certified crop advisor by the American society of agronomy,
- 15 Wisconsin certified crop advisors board.
- 16 3. Registered as a crop scientist, crop specialist, soil scientist, soil specialist or
- 17 professional agronomist in the American registry of certified professionals in agronomy, crops
- 18 and soils.
- 19 4. Completes a training course presented or approved by the department. The
- 20 department may approve a training course that is effectively designed to provide trainees with the
- 21 qualifications required under sub. (1).

1 5. The holder of other credentials which the department deems equivalent to those
2 specified under subds. 1. to 4.

3 (b) The nutrient management planner complies with sub. (3).

4 (c) The department has not disqualified the nutrient management planner under sub. (4).

5 **NOTE:** The department does not affirmatively certify nutrient management planners. A
6 nutrient management planner who meets all of the requirements under sub. (2)
7 may represent himself or herself as a qualified nutrient planner, without any
8 certificate from the department.

9
10 (3) NUTRIENT MANAGEMENT PLANS. (a) A qualified nutrient management planner shall
11 prepare nutrient management plans according to s. ATCP 50.04(8).

12 (b) A qualified nutrient management planner may not approve a nutrient management
13 plan that fails to comply with s. ATCP 50.04(8).

14 (4) DISQUALIFICATION. The department may issue a written notice to an individual,
15 declaring that the individual is not a qualified nutrient management planner under this section.

16 The notice shall specify the basis for the department's declaration. The department may
17 disqualify a nutrient management planner if the planner violates sub. (3) or lacks qualifications
18 required under sub. (1).

19 **NOTE:** A person who is named in a disqualification notice under sub. (4) may request a
20 contested case hearing under s. 227.42, Stats., and ch. ATCP 1.

21
22 (5) MISREPRESENTING QUALIFICATION. No person may do any of the following, directly
23 or by implication:

24 (a) Misrepresent that an individual is a qualified nutrient management planner under this
25 section.

1 (b) Represent, contrary to a valid written notice under sub. (4), that an individual is a
2 qualified nutrient management planner under this section.

3 (6) RECORDS. A qualified nutrient management planner shall keep copies of all nutrient
4 management plans that the planner prepares or approves. The planner shall retain the records for
5 at least 4 years, and shall make them available for inspection and copying by the department
6 upon request.

7 **ATCP 50.50 Soil testing laboratories.** (1) CERTIFIED LABORATORY. A nutrient
8 management plan shall be based on soil tests conducted at the university of Wisconsin or another
9 soil testing laboratory certified by the department. The department may certify a laboratory
10 according to this section.

11 **NOTE:** Subsection (1) does not prohibit an uncertified laboratory from performing
12 soil tests. However, a nutrient management plan does not comply with this
13 chapter if it is based on soil tests performed by an uncertified laboratory.
14

15 (2) APPLYING FOR CERTIFICATION. A laboratory operator may apply to the department
16 for certification under sub. (1). The operator shall apply on a form provided by the department. *forms*

17 The application shall include all the following:

18 (a) The name of the laboratory operator.

19 (b) The address of every laboratory in this state for which the operator seeks
20 certification.

21 (c) The name and telephone number of the individual who is responsible for on-site
22 administration of each laboratory under par. (b).

23 (d) Documentation showing that the laboratory is qualified and equipped to perform
24 accurate soil tests.

1 (e) An agreement to comply with sub. (4).

2 (f) Other relevant information required by the department.

3 (3) ACTION ON CERTIFICATION REQUEST. The department shall grant or deny a
4 certification request under sub. (2) within 30 days after the department receives a complete
5 request. The department may grant a certification request based on information provided under
6 sub. (2). A certification is nontransferable. A certification remains in effect until withdrawn by
7 the department.

8 (4) NUTRIENT RECOMMENDATIONS. If a certified laboratory recommends nutrient
9 applications to a farmer that exceed the amounts required to achieve applicable crop fertility
10 levels recommended by the University of Wisconsin in UWEX publication A-2809, *Soil Test*
11 *Recommendations for Field, Vegetable and Fruit Crops (copyright 1998)*, the laboratory shall
12 make those recommendations in writing and shall disclose all the following in the same
13 document:

14 (a) The farmer's name and address.

15 (b) The nutrient application amounts required to achieve applicable crop fertility levels
16 recommended by the University of Wisconsin. The laboratory shall disclose these amounts so
17 the farmer can easily compare them with the laboratory's recommended amounts.

18 (c) The following statement, clearly and conspicuously printed adjacent to the
19 laboratory's recommended nutrient applications:

20 **IMPORTANT NOTICE**

21 **Our recommended nutrient applications exceed the amounts required to achieve**
22 **applicable crop fertility levels recommended by the University of Wisconsin. The**
23 **amounts required to achieve the UW's recommended crop fertility levels are shown**
24 **for comparison. Excessive nutrient applications may increase your costs, and may**

1 **cause surface water and groundwater pollution. If you apply nutrients at the rates**
2 **we recommend, you will not comply with state soil and water conservation**
3 **standards. You may contact your county land conservation committee for more**
4 **information.**

5
6 *NOTE:* Appendix B contains a convenient summary of UWEX publication A-2809, for
7 selected crops. You may obtain the complete publication and the summary from
8 your county extension agent. The complete publication is also on file with the
9 department, the secretary of state and the revisor of statutes.

10
11 (5) RECORDS. A certified soil testing laboratory shall keep records of all the following
12 for at least 4 years, and shall make those records available for inspection and copying by the
13 department upon request:

- 14 (a) Records of all soil tests conducted at the laboratory.
15 (b) Copies of all nutrient application recommendations made by the laboratory.

16 (6) DENYING OR WITHDRAWING CERTIFICATION. (a) The department may, by written
17 notice, deny or withdraw a certification under this section if the department finds that the
18 laboratory has done any of the following:

- 19 1. Failed to submit a complete application under sub. (2).
20 2. Failed to perform soil tests with reasonable accuracy.
21 3. Failed to comply with applicable requirements under this section.
22 4. Falsified relevant information.

23 (b) The department shall specify, in its notice under par. (a), the reason for the
24 certification denial or withdrawal.

25 *NOTE:* A laboratory operator adversely affected by a certification denial or withdrawal
26 may request a hearing pursuant to s. 227.42, Stats., and ch. ATCP 1.
27

1 **ATCP 50.52 Training for county staff.** (1) ROLE OF THE DEPARTMENT. The
2 department, in consultation with the county land conservation committees and the training
3 advisory committee appointed under sub. (2), may do any of the following to ensure adequate
4 training of county land conservation committee staff who administer programs under this chapter
5 or s. 281.65, Stats.:

- 6 (a) Determine training needs and priorities.
- 7 (b) Identify training opportunities and resources.
- 8 (c) Make training recommendations.
- 9 (d) Approve training programs funded under this chapter.
- 10 (e) Coordinate the delivery of training.
- 11 (f) Provide training and assess fees to cover training costs.

12 **NOTE:** The department may exempt county land conservation committee staff from fees
13 that the department charges for training programs provided by the department.

14 (g) Issue training guidelines for certified agricultural engineering practitioners under s.
15 ATCP 50.46(10).

16 **NOTE:** The department guidelines may include suggested courses, training activities, and
17 the types of knowledge and experience that may help applicants qualify for
18 certification at specified rating levels.

19 (h) Distribute training funds to counties under s. ATCP 50.32.

20 (2) TRAINING ADVISORY COMMITTEE. The department shall appoint a training advisory
21 committee to advise the department on training activities under sub. (1). The committee shall
22 include representatives of all of the following:

- 23 (a) DNR.

- 1 (b) NRCS.
- 2 (c) The university of Wisconsin-extension.
- 3 (d) The statewide association of land conservation committees.
- 4 (e) The statewide association of land conservation committee staff.

1 SUBCHAPTER VII

2 COUNTY AND LOCAL ORDINANCES

3 ATCP 50.54 County and local ordinances; general

4 ATCP 50.56 Manure storage systems; ordinance

5 ATCP 50.58 Shoreland management; ordinance

6 ATCP 50.60 Livestock operations; local regulation

7 ATCP 50.54 County and local ordinances; general. (a) Local regulations

8 establishing standards for agricultural facilities and practices shall be reasonably consistent with

9 this chapter.

10 (b) Before a county, city, village, town or local governmental unit holds public hearings

11 on a local regulation implementing conservation practices required under this chapter, other than

12 an ordinance adopted under s. 59.692, Stats., the county, city, village, town, or local

13 governmental unit shall submit the proposed regulation for review by the department. The

14 department shall review the local regulation for consistency with this chapter.

15 **NOTE:** See s. 92.05(3)(L), Stats. DATCP may comment on a local regulation that it
16 reviews. DATCP will review agricultural shoreland management ordinances
17 adopted under s. 92.17, Stats., and any other ordinances that regulate farm
18 conservation practices. DATCP will assist DNR in reviewing general shoreland
19 management ordinances adopted under s. 59.692 (DNR has primary authority) if
20 those ordinances regulate agricultural conservation practices

21
22 (c) Paragraph (b) does not require a county, city, village, town or local governmental unit
23 to obtain DATCP approval of a proposed ordinance, except that DATCP must approve
24 agricultural shoreland management ordinances adopted under s. 92.17, Stats.

25 **NOTE:** See s. 92.17, Stats., and s. ATCP 50.58.
26

1 **ATCP 50.56 Manure storage systems; ordinance.** (1) GENERAL. A county, city,
2 village or town may adopt an ordinance under s. 92.16, Stats., that establishes standards for
3 manure storage systems. — see stat — after 1983

4 (2) CONTENTS. An ordinance adopted under s. 92.16, Stats., shall include all the
5 following:

6 (a) The authority of the county, city, village or town to adopt the ordinance.

7 (b) The purpose for the ordinance, and the findings that prompted the county, city,
8 village or town to adopt the ordinance.

9 (c) Definitions of significant terms used in the ordinance.

10 **NOTE:** Section ATCP 50.62(1) includes relevant definitions that may be used in a
11 manure storage ordinance.

12 (d) Construction provisions under sub. (3).

13 (e) Abandonment provisions under sub. (4), if any.

14 (f) Conditions, if any, under which the county, city, village or town may require the
15 abandonment of a manure storage system.

16 (g) Provisions, if any, for monitoring the adequacy of manure storage systems, including
17 the adequacy of related nutrient management practices.

18 **NOTE:** The monitoring system may be applied to all manure storage systems, regardless
19 of when those systems were installed.

20 (h) Provisions related to ordinance administration, including inspection and enforcement
21 authority, appeal procedures, and penalties for violating the ordinance.

22 (i) Provisions, if any, related to the initial applicability and severability of the ordinance.

23 (j) The effective date of the ordinance.

1 (3) CONSTRUCTION PROVISIONS. An ordinance adopted under s. 92.16, Stats., shall
2 prohibit any person from constructing a manure storage system unless that person does all the
3 following:

- 4 (a) Obtains a permit from the county, city, village or town that adopts the ordinance.
5 (b) Develops a nutrient management plan that complies with ^{S,}ATCP 50.04(8). X

6 **NOTE:** A nutrient management plan, demonstrating that manure can be properly
7 utilized, should be included with a permit application under par. (a). If the
8 county, city, village or town wants to monitor compliance with the nutrient
9 management plan, its ordinance may include monitoring provisions under sub.
10 (2)(g).

11 (c) Complies with all the following standards:

- 12 1. NRCS technical guide waste storage facility standard 313, if incorporated by reference
13 in the ordinance.
14 2. NRCS technical guide manure transfer standard 634, if incorporated by reference in
15 the ordinance.
16 3. Applicable DNR requirements under s. 281.65(4)(g)5., Stats.

17 (4) ABANDONMENT PROVISIONS: An ordinance adopted under s. 92.16, Stats., may
18 prohibit any person from abandoning a manure storage system unless that person does all the
19 following:

- 20 (a) Submits an abandonment plan for approval by the county, city, village or town. The
21 abandonment plan shall comply with the waste facility closure provisions contained in NRCS
22 technical guide waste storage standard 313.
23 (b) Obtains a permit for the abandonment.
24 (d) Complies with the approved abandonment plan under par. (a).

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1 **NOTE:** An ordinance may apply the abandonment requirements under sub. (4) to any
2 manure storage system, regardless of when that system was installed.

3 (5) COUNTY REVIEW. Before a county, city, village or town adopts or amends a manure
4 storage ordinance under s. 92.16, Stats., the county, city, village or town shall refer the proposed
5 ordinance or amendment to the county land conservation committee and the county planning and
6 zoning agency for review and comment.

7 (6) DEPARTMENT REVIEW. Before a county, city, village or town adopts or amends an
8 ordinance under s. 92.16, Stats., the county, city, village or town shall submit the ordinance to
9 the department. The department shall review the ordinance for consistency with this chapter.

10 The department may ask the county, city, village or town for information that it needs to perform
11 the review.

12 **NOTE:** See s. 92.05(3)(L), Stats. *OK in 109*

13 **ATCP 50.58 Shoreland management; ordinance.** (1) GENERAL. A county, city,
14 village or town may adopt or amend a shoreland management ordinance under s. 92.17, Stats.,
15 with department approval.

16 **NOTE:** This subsection does not limit the authority of a county, city, village or town to
17 adopt a shoreland management ordinance under other applicable law.

18 (2) CONTENTS. An ordinance adopted under s. 92.17, Stats., shall include all the
19 following provisions:

20 (a) The authority of the county, city, village or town to adopt the ordinance.

21 (b) The purpose for the ordinance, and the findings that prompted the county, city,
22 village or town to adopt the ordinance.

23 (c) Definitions of significant terms used in the ordinance.

1 (d) A description of the activities and geographical areas regulated under the ordinance,
2 including maps of the areas at a scale of 1:24,000 (one inch per 2,000 feet) or larger.

3 (e) Soil and water resource management practices or compliance standards required
4 under the ordinance.

5 (f) Procedures for developing and approving conservation plans, if required under the
6 ordinance.

7 (g) Provisions related to ordinance administration, including inspection and enforcement
8 authority, appeal procedures, and penalties for violating the ordinance.

9 (h) Provisions, if any, related to the initial applicability and severability of the ordinance.

10 (i) The effective date of the ordinance.

11 (3) COUNTY REVIEW. Before a county, city, village or town adopts or amends a
12 shoreland management ordinance under 92.17, Stats., the county, city, village or town shall refer
13 the proposed ordinance or amendment to the county land conservation committee and the county
14 planning and zoning agency for review and comment.

15 (4) DEPARTMENT APPROVAL. (a) A county, city, village or town may submit a proposed
16 ordinance or amendment for department approval under sub. (1). Except as provided in par. (c),
17 the county, city, village or town shall submit all the following with the proposed ordinance or
18 amendment:

- 19 1. County comments under sub. (3), if any.
- 20 2. A description of any public hearings held on the proposal, and a brief summary of
21 hearing comments if any.

1 3. A statement, by an attorney authorized to practice law in this state, saying that the
2 attorney has reviewed the ordinance or amendment for compliance with applicable law under ch.
3 59 to 68, Stats.

4 (b) Except as provided in par. (c), the department shall consult with DNR and the LWCB
5 before approving a proposed ordinance or amendment under sub. (1). The department may
6 approve a proposed ordinance or amendment subject to conditions specified by the department.
7 If the department disapproves a proposed ordinance or amendment, it shall give written notice
8 specifying its reasons.

9 **NOTE:** DNR reviews shoreland management ordinances and amendments to determine
10 whether they conflict with shoreland and shoreland-wetland zoning rules
11 administered by the DNR under chs. NR 115 and 117.

12
13 (c) The department may approve a proposed ordinance amendment without consulting
14 DNR or the LWCB, and without reviewing any information under par. (a), if the department
15 finds that the amendment involves no significant legal or policy issues.

16 (d) The department may approve a shoreland management ordinance or amendment
17 proposed under s. 92.17, Stats., if the department finds that the ordinance or amendment is
18 consistent with this chapter and conforms to guidelines adopted by the department under s.
19 92.17, Stats.

20 (e) Whenever a county, city, village or town adopts a shoreland management ordinance
21 under s. 92.17, Stats., the county, city, village or town shall file a certified copy of the adopted
22 ordinance with the department.

23 **ATCP 50.60 Livestock operations; local regulation.** Local regulation of livestock
24 operations under s. 92.15, Stats., shall be consistent with this chapter. Before a county, city,

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1 village, town or local governmental unit adopts a livestock regulation under s. 92.15, Stats., the
2 county, city, village, town or local governmental unit shall submit the proposed regulation for
3 review by the department. The department shall review the proposed regulation for compliance
4 with s. 92.15, Stats., and for consistency with this chapter.

5 **NOTE:** See s. 92.05(3)(L), Stats.

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1 **ATCP 50.61 Technical standards; general.** (1) COST-SHARED PRACTICES MUST
2 COMPLY. Cost-shared practices under this chapter shall comply with applicable technical
3 standards under this subchapter.

4 (2) TECHNICAL STANDARDS ADOPTED BY RULE. The department may not adopt, amend
5 or repeal technical standards under this subchapter, except by rule.

6 **NOTE:** Before the department adopts, amends or repeals a technical standard by rule,
7 the department will consider the recommendations of the standards oversight
8 council, a voluntary multi-agency council that works to share technical
9 information and coordinate technical standards among participating agencies.
10 Before the department adopts, amends or repeals a technical standard by rule, the
11 department must do all the following (see s. 15.13, Stats., and ch. 227, Stats.):

- 12 • Hold public hearings.
- 13 • Obtain the approval of the board of agriculture, trade and consumer
14 protection.
- 15 • Submit the final draft rule for legislative committee review.
- 16 • Obtain the approval of the attorney general and the revisor of statutes, if
17 the department proposes to incorporate technical publications by reference
18 in the rule. The department must make copies of the technical
19 publications available for public inspection, and must file copies with the
20 attorney general, the revisor of statutes and the secretary of state.
- 21 • Prepare a fiscal estimate that discusses the financial impact of the rule on
22 state and local government.
- 23 • Prepare a small business analysis that discusses the impact of the rule on
24 small businesses (including farmers)
- 25 • File the rule with the secretary of state.
- 26 • File the rule with the revisor of statutes, for publication in the Wisconsin
27 administrative register and the Wisconsin administrative code.
- 28
- 29

30 **ATCP 50.62 Manure storage systems.** (1) DEFINITIONS. In this section:

31 (a) "Animal feeding operation" has the meaning given in s. ATCP 50.82(1)(b), and
32 includes 2 or more animal feeding operations owned by the same farmer if those operations are
33 adjacent to each other or share a common waste disposal area or system.

1 (b) "Manure management system" means a system of one or more practices, facilities,
2 techniques or measures used to prevent or reduce pollutants associated with manure. A "manure
3 management system" may include one or more of the following:

4 1. A manure storage system.

5 2. A barnyard runoff control system as defined in s. ATCP 50.64(1).

6 3. Nutrient management as defined in s. ATCP 50.81(1)(a).

7 4. Manure storage system abandonment as defined in s. ATCP 50.63(1)(b). *sub*

8 (c) "Manure storage facility" means one or more manure storage structures. "Manure
9 storage facility" includes equipment used to load or unload a manure storage structure if the
10 equipment is specifically designed for that purpose and is an integral part of the facility.

11 "Manure storage facility" does not include equipment used to apply manure to land.

12 (d) "Manure storage structure" means a vessel used to contain and store manure on a
13 temporary basis. "Manure storage structure" does not include equipment used to apply manure
14 to land.

15 (e) "Manure storage system" means a manure storage facility and related practices
16 needed for the environmentally safe storage of manure at that facility. A "manure storage
17 system" does not include any of the following:

18 1. A milking center waste control system.

19 2. Nutrient management as defined in s. ATCP 50.81(1)(a).

20 3. A barnyard runoff control system as defined in s. ATCP 50.64(1).

21 4. Equipment used to apply manure to land.

1 (2) MANURE STORAGE SYSTEMS; ELIGIBLE COSTS. A cost-share grant under s. ATCP
2 50.40 may reimburse any of the following costs related to a manure storage system:

3 (a) Costs to design, construct, repair or reconstruct the system.

4 (b) Costs to purchase and install permanent fencing needed to protect the system.

5 (c) Abandonment of the system if required to meet water quality objectives.

6 (3) MANURE STORAGE SYSTEMS; INELIGIBLE COSTS. A cost-share grant under s. ATCP
7 50.40 may not reimburse any of the following costs:

8 (a) Costs to design a manure storage system that is not installed.

9 (b) Costs to construct, modify or support a building. This paragraph does not apply to a
10 modification that is essential for the installation of a manure storage system, or to the

11 construction of a roof pursuant to s. ATCP 50.84.

12 (c) Costs for equipment used to apply manure to land.

13 (d) Any manure storage system costs related to an animal feeding operation if all the
14 manure from that operation could be applied to land according to NRCS technical guide nutrient
15 management standard 590 without causing or aggravating a water quality problem. This
16 paragraph does not apply to the repair or modification of an existing manure storage system if all
17 the following apply:

18 1. The repair or modification is needed to meet water quality objectives.

19 2. The system, except for that portion needing repair or modification, is fully operational.

20 3. The farmer has made a substantial investment in the system, and will lose that
21 investment if the system is not repaired or modified.

1 **NOTE:** The feasibility of applying manure to land under par. (d) will be determined in
2 light of existing topographic, climatological and management factors.

3 (e) Costs for more than one manure storage system for an animal feeding operation.

4 (f) Costs for a manure storage system, to the extent that those costs exceed the cost of an
5 equally effective alternative.

6 (g) Any manure storage system costs that are related to changes in livestock numbers,
7 housing or management practices that occurred within 3 years of the grant application date. The
8 department or county land conservation committee may award a cost-share grant for practices or
9 systems based on the costs to correct the discharge occurring prior to the change.

10 (h) Any increase in manure storage system costs that are related to anticipated changes in
11 livestock numbers, housing or management.

12 (4) MANURE STORAGE SYSTEMS; GRANT DISQUALIFICATION. Neither the department nor a
13 county land conservation committee may award a cost-share grant for a manure storage system if
14 the department finds any of the following:

15 (a) The farmer intentionally aggravated a pollution discharge from the animal feeding
16 operation.

17 (b) The farmer could prevent the discharge of pollutants through improved management
18 practices at nominal cost.

19 (c) The manure storage system will not achieve compliance with applicable state and
20 local regulations.

21 (d) The farmer holds a Wisconsin pollution discharge elimination system permit for the
22 animal feeding operation under s. 283.31, Stats.

1 (e) The farmer could have prevented the discharge of pollutants by complying with an
2 operations and maintenance plan previously agreed upon by the farmer and one of the following:

3 1. The department.

4 2. The county land conservation committee.

5 3. DNR.

6 4. NRCS.

7 (7) MANURE STORAGE SYSTEMS; DESIGN, CONSTRUCTION AND MAINTENANCE. A cost-
8 share grant under s. ATCP 50.40 may not reimburse any costs related to a manure storage system
9 unless all the following conditions are met:

10 (a) The system capacity is necessary to store the manure produced by the animal feeding
11 operation over a normal period of 30 to 210 days, as verified by a nutrient management plan or
12 an operation and maintenance plan. If the farmer chooses a system with additional capacity, the
13 cost-share grant will be prorated based on the eligible capacity.

14 (b) The system complies with well location requirements under s. NR 812.08.

15 (c) If the manure storage facility is designed to be emptied annually or semi-annually,
16 manure from the system is incorporated into the soil within 3 days after it is applied to land.

17 (d) No manure from the system is applied to frozen or saturated ground.

18 (e) The system complies with all the following that apply:

19 1. NRCS technical guide waste management system standard 312.

20 2. NRCS technical guide waste storage facility standard 313.

21 3. NRCS technical guide manure transfer standard 634.

22 4. NRCS technical guide waste treatment lagoon standard 359.

1 5. NRCS technical guide fencing standard 382.

2 6. NRCS technical guide heavy use area protection standard 561.

3 7. Other standards specified by the department.

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4 (f) The farmer establishes a nutrient management plan, and agrees to comply with that
5 plan and maintain the manure storage system for 10 years unless the animal feeding operation is
6 discontinued.

7 **ATCP 50.63 Manure storage system abandonment.** (1) DEFINITIONS. In this section:

8 (a) "Manure storage system" has the meaning given in s. ATCP 50.62(1)(e).

9 (b) "Manure storage system abandonment" means permanently disabling and sealing a
10 leaking or improperly sited manure storage system.

11 (2) COST-SHARE ELIGIBILITY. A cost-share grant under s. ATCP 50.40 may reimburse
12 costs to abandon a manure storage system if any of the following conditions exist:

13 (a) The manure storage system fills with groundwater.

14 (b) The manure storage system is in contact with or intercepts bedrock.

15 (c) Manure has been discharged into surface or groundwater as a result of an irreparable
16 structural failure in the manure storage system.

17 (d) The department finds that continued use of the manure storage system is likely to
18 result in structural failure and resource degradation.

19 (3) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the
20 following costs related to the abandonment of a manure storage system:

21 (a) Costs to design and remove any constructed soil liner, concrete liner or membrane
22 liner.

1 (b) Costs to remove and dispose of soil saturated with manure.

2 (c) Costs for filling, shaping and seeding the site to provide surface drainage away from
3 the abandoned site.

4 (4) INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not reimburse the
5 costs of removing or spreading manure that can be removed using conventional equipment and
6 routine agricultural practices.

7 (5) DESIGN, CONSTRUCTION AND MAINTENANCE. A cost-share grant under s. ATCP 50.40
8 may not reimburse any costs related to the abandonment of a manure storage system unless one
9 of the following applies:

10 (a) The department approves the abandonment plan.

11 (b) The abandonment plan complies with local regulations under s. ATCP 50.54(4).

12 **ATCP 50.64 Barnyard runoff control systems.** (1) DEFINITION. In this section,
13 "barnyard runoff control system" means a system of facilities or practices used to contain, divert,
14 retard, treat or otherwise control the discharge of runoff from outdoor areas of concentrated
15 livestock activity. A "barnyard runoff control system" may include any of the following
16 components which is necessary to contain, divert, retard, treat or control surface water runoff:

17 (a) Access roads or cattle crossings under s. ATCP 50.65.

18 (b) Animal trails and walkways under s. ATCP 50.66.

19 (c) Cattle mounds under s. ATCP 50.67.

20 (d) Critical area stabilization under s. ATCP 50.70.

21 (e) Diversions under s. ATCP 50.72.

22 (f) Filter strips or buffer strips under s. ATCP 50.74.

- 1 (g) Heavy use area protection under s. ATCP 50.76.
- 2 (h) Intensive grazing management under s. ATCP 50.77.
- 3 (i) Lined or grassed waterways under s. ATCP 50.94.
- 4 (j) Livestock fencing under s. ATCP 50.78.
- 5 (k) Livestock watering facilities under s. ATCP 50.79.
- 6 (L) Manure storage systems under s. ATCP 50.62 that are needed to collect and contain
- 7 barnyard runoff.
- 8 (m) Nutrient and pesticide management under s. ATCP 50.81.
- 9 (n) Relocating or abandoning animal feeding operations under s. ATCP 50.82.
- 10 (o) Roofs under s. ATCP 50.84.
- 11 (p) Roof runoff systems under s. ATCP 50.85.
- 12 (q) Sediment basins under s. ATCP 50.86.
- 13 (r) Streambank and shoreline protection under s. ATCP 50.87.
- 14 (s) Subsurface drains under s. ATCP 50.89.
- 15 (t) Underground outlets under s. ATCP 50.91.
- 16 (u) Waste transfer systems under s. ATCP 50.92.
- 17 (v) Water and sediment control basins under s. ATCP 50.93.
- 18 (w) Well decommissioning under s. ATCP 50.95.

19 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the
20 following costs related to a barnyard runoff control system:

- 21 (a) Costs for system components under sub. (1) that are eligible for reimbursement under
- 22 this subchapter.

1 (b) Costs to establish permanent vegetative cover, or to provide temporary cover pending
2 the establishment of permanent cover. This may include costs for mulch, fertilizer, seed and
3 other necessary materials.

4 (3) INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not reimburse any
5 of the following costs:

6 (a) Costs to design a barnyard runoff control system that is not installed.

7 (b) Costs to construct or modify a building. This paragraph does not apply to a
8 modification that is essential for the installation of a barnyard runoff control system, or to
9 construction of a roof pursuant to s. ATCP 50.84.

10 (c) Costs for equipment used to apply manure to land.

11 (d) Costs of a proposed practice, to the extent that those costs exceed the cost of an
12 equally effective alternative.

13 (e) Costs resulting from changes in livestock numbers, housing or management practices
14 that occurred within 3 years of the grant application date. A cost-share grant may costs for
15 practices that would have been needed prior to the change.

16 (f) Costs resulting from anticipated changes in livestock numbers, housing or
17 management.

18 (4) BARNYARD RUNOFF CONTROL SYSTEMS; GRANT DISQUALIFICATION. Neither the
19 department nor a county land conservation committee may award a cost-share grant for a
20 barnyard runoff control system if the department finds any of the following:

21 (a) The farmer intentionally aggravated a pollution discharge from the animal feeding
22 operation.

1 (b) The farmer could prevent the discharge of pollutants through improved management
2 practices at nominal cost.

3 (c) The barnyard runoff control system will not be adequate to achieve compliance with
4 applicable state and local regulations.

5 (d) The farmer holds a Wisconsin pollution discharge elimination system permit for the
6 animal feeding operation under s. 283.31, Stats.

7 (e) The farmer could have prevented the discharge of pollutants by complying with an
8 operations and maintenance plan previously agreed upon by the farmer and one of the following:

9 1. The department.

10 2. The county land conservation committee.

11 3. DNR.

12 4. NRCS.

13 (7) DESIGN, CONSTRUCTION AND MAINTENANCE. A cost-share grant may not reimburse
14 any costs for a barnyard runoff control system unless all of the following conditions are met:

15 (a) The system complies with applicable design, construction and maintenance standards
16 under this subchapter.

17 (b) The farmer agrees to maintain the barnyard runoff control system, and the nutrient
18 management plan if required, for 10 years unless the animal feeding operation is discontinued.

19 **NOTE:** A barnyard runoff control system may include one or more of the practices
20 listed in this section. Standards for the listed practices are contained in other
21 sections of this subchapter. Any of the listed practices may also be cost-shared in
22 a project which is not a barnyard runoff control project.

1 **ATCP 50.65 Access roads and cattle crossings.** (1) DEFINITION. In this section,
2 "access road or cattle crossing" means a road or pathway which confines or directs the movement
3 of livestock or farm equipment, and which is designed and installed to control surface water
4 runoff, to protect an installed practice, to control livestock access to a stream or waterway, to
5 stabilize stream crossing, or to prevent erosion.

6 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of
7 establishing an access road or cattle crossing if the access road or cattle crossing is needed to
8 comply with applicable state or local regulations.

9 (3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-share grant under s.
10 ATCP 50.40 may not reimburse the cost of establishing an access road or cattle crossing unless
11 all the following conditions are met:

12 (a) The access road or cattle crossing complies with all the following that apply:

- 13 1. NRCS technical guide access road standard 560.
- 14 2. NRCS technical guide streambank and shoreline protection standard 580.
- 15 3. NRCS technical guide fencing standard 382.

16 (b) The farmer agrees to maintain the access road or cattle crossing for 10 years unless
17 farming operations on the affected land are discontinued.

18 **ATCP 50.66 Animal trails and walkways.** (1) DEFINITION. In this section, "animal
19 trail or walkway" means a travel lane to facilitate movement of livestock.

20 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of
21 establishing an animal trail or walkway when necessary to comply with state or local regulations.

1 (3) DESIGN, CONSTRUCTION AND MAINTENANCE. A cost-share grant under s. ATCP 50.40
2 may not reimburse the cost of establishing an animal trail or walkway unless all the following
3 conditions are met:

4 (a) The animal trail or walkway complies with all of the following that apply:

- 5 1. NRCS technical guide animal trails and walkways standard 575.
- 6 2. NRCS technical guide streambank and shoreline protection standard 580.
- 7 3. NRCS technical guide fencing standard 382.

8 (b) The farmer agrees to maintain the animal trail or walkway for 10 years unless
9 farming operations on the affected land are discontinued.

10 **ATCP 50.67 Cattle mounds.** (1) DEFINITION. In this section, "cattle mound" means an
11 earthen mound installed to provide a well drained and stable surface for livestock concentrated in
12 a feedlot, barnyard or other outdoor area.

13 (2) COST-SHARE ELIGIBILITY. A cost-share grant under s. ATCP 50.40 may reimburse
14 the cost of establishing a cattle mound if all the following conditions are met:

15 (a) The cattle mound will replace dirt lots or cattle loafing areas that are identified as
16 sources of water pollution.

17 (b) The cattle mound is necessary to achieve water quality benefits, according to a
18 pollution assessment tool approved by the department.

19 **NOTE:** Currently, the department uses a pollution assessment tool such as BARNY, the
20 Wisconsin barnyard model, Wisconsin DNR publication WR 285-91, to verify
21 that the cattle mound will provide demonstrable water quality benefits.

1 (3) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of
2 designing and constructing a cattle mound, including costs for necessary runoff treatment
3 practices and costs for fencing to confine the livestock to the mound area.

4 (4) INELIGIBLE COSTS. A cost-share grant under this section may not reimburse the costs
5 for wind breaks associated with the cattle mound.

6 (5) DESIGN, CONSTRUCTION AND MAINTENANCE. A cost-share grant under s. ATCP 50.40
7 may not reimburse the cost of establishing a cattle mound unless all the following conditions are
8 met:

9 (a) The cattle mound is an integral component of a comprehensive barnyard runoff
10 control system approved by the department.

11 (b) The design, construction and maintenance of the cattle mound complies with
12 standards approved by the department.

13 (c) The farmer does all the following:

14 1. Abandons all loafing areas or dirt lots, except areas which the department or the
15 county land conservation committee determine to be pasture. For purposes of this paragraph,
16 "pasture" means land with a permanent, uniform cover of grasses or legumes used as forage for
17 livestock. "Pasture" does not include an area where supplemental forage feeding is provided on a
18 regular basis.

19 2. Agrees to convert all abandoned areas under subd. 1. to uses compatible with
20 applicable state and local regulations.

21 (d) The cattle mound is designed and installed to provide runoff treatment or control
22 which is equivalent to that provided by a barnyard runoff control system under s. ATCP 50.64.

1 (e) The farmer agrees to maintain the cattle mound for 10 years unless farming
2 operations on the affected land are discontinued.

3 **ATCP 50.68 Conservation tillage. (1) DEFINITION.** In this section, "conservation
4 tillage" means any of the following:

5 (a) Preparing land surfaces for the planting and growing of crop plants using methods
6 that result in a rough land surface which is covered in varying degrees by vegetative residues of a
7 previous crop, and which provides a significant degree of resistance to soil erosion by raindrop
8 impact, surface water runoff or wind.

9 (b) Planting crop seeds in a narrow slot or a narrow strip of tilled soil, in order to
10 maintain residue cover and avoid disturbing the entire soil surface.

11 (2) **ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse costs for
12 any of the following conservation tillage practices:

13 (a) No-till practices.

14 (b) Chisel plowing.

15 (c) Disking.

16 (d) Till-planting practices.

17 (e) Other, similar practices.

18 (3) **COSTS BASED ON PREVAILING CHARGES FOR CUSTOM TILLAGE.** A cost-share grant
19 under s. ATCP 50.40 for conservation tillage shall be based on prevailing prices charged by
20 providers of custom conservation tillage services in the surrounding area.

21 (4) **DESIGN, CONSTRUCTION AND MAINTENANCE.** A cost-share grant under s. ATCP 50.40
22 may not reimburse conservation tillage costs unless all the following conditions are met:

1 (a) Land subject to conservation tillage is protected from erosion from the time of
2 harvest until after the next planting. Protection may be provided by a cover crop residue,
3 temporary cover or another approved practice. The residue, temporary cover or other approved
4 practice shall cover at least 30% of the land.

5 (b) On lands with slopes greater than 6%, all tillage and planting operations are
6 performed as nearly as practicable on the contour or parallel to terraces.

7 (c) The conservation tillage complies with NRCS technical guide conservation tillage
8 standard 329.

9 **ATCP 50.69 Contour farming.** (1) DEFINITION. In this section, "contour farming"
10 means plowing, preparing, planting and cultivating sloping land on the contour and along
11 established grades of terraces or diversions.

12 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse costs to
13 establish a contour farming system, including necessary costs to remove obstacles and install
14 subsurface drains.

15 (3) DESIGN, CONSTRUCTION AND MAINTENANCE. A cost-share grant under s. ATCP 50.40
16 may not reimburse contour farming costs unless all the contour farming system meets the
17 following applicable standards:

18 (a) NRCS technical guide contour farming standard 330.

19 (b) NRCS technical guide obstruction removal standard 500.

20 (c) NRCS technical guide subsurface drain standard 606.

1 **ATCP 50.70 Critical area stabilization.** (1) DEFINITION. In this section, "critical area
2 stabilization" means planting suitable vegetation on highly erodible areas such as steep slopes,
3 gullies and roadsides, so as to reduce soil erosion or pollution from agricultural nonpoint sources.

4 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the
5 following critical area stabilization costs:

6 (a) Costs to purchase and install permanent fencing around the critical area.

7 (b) Costs to establish permanent vegetative cover, or to provide temporary cover until
8 permanent cover is established. This may include costs for mulch, fertilizer and other necessary
9 materials. Trees planted with cost-share funds may not be harvested commercially for 10 years.

10 (c) Preparatory shaping and smoothing operations.

11 (3) DESIGN, CONSTRUCTION AND MAINTENANCE. A cost-share grant under s. ATCP 50.40
12 may not reimburse critical area stabilization costs unless all the following conditions are met:

13 (a) The critical area stabilization complies with all of the following that apply:

14 1. NRCS technical guide critical area planting standard 342.

15 2. NRCS technical guide fencing standard 382.

16 3. NRCS technical guide field border standard 386.

17 4. NRCS technical guide livestock exclusion standard 472.

18 5. NRCS technical guide mulching standard 484.

19 6. NRCS technical guide tree planting standard 612.

20 (b) The farmer agrees to maintain the critical area stabilization practice for 10 years
21 unless farming operations on the affected land are discontinued.

1 **ATCP 50.71 Cropland cover (green manure).** (1) DEFINITION. In this section,

2 “cropland cover” means close-growing grasses, legumes or small grain grown for any of the
3 following purposes:

4 (a) To control erosion during periods when major crops do not furnish adequate cover.

5 (b) To add organic matter to the soil.

6 (c) To improve soil infiltration, aeration or tilth.

7 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse costs to
8 establish cropland cover on a field that contributes to water quality degradation when crop
9 harvesting during the growing season leaves the field without enough residue to provide
10 adequate surface runoff protection.

11 (3) DESIGN, CONSTRUCTION AND MAINTENANCE. A cost-share grant under s. ATCP 50.40
12 may not reimburse any costs to establish cropland cover unless that cropland cover meets NRCS
13 technical guide cropland cover and green manure crop standard 340.

14 **ATCP 50.72 Diversions.** (1) DEFINITION. In this section, "diversion" means a structure

15 installed to divert excess surface runoff water to an area where it can be used, transported or
16 discharged without causing excessive soil erosion. "Diversion" includes a channel with a
17 supporting earthen ridge on the lower side, installed across the slope with a self-discharging and
18 non-erosive gradient.

19 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the
20 following costs to establish a diversion system:

1 (a) Costs to install a diversion, outlet, dike or subsurface drain. Costs to install a
2 subsurface drain may be reimbursed only if the drain is installed on sloping land where
3 groundwater seeps to the surface and causes the land or land cover to lose its stability.

4 (b) Costs to install pipes, underground outlets, or other structures needed to deliver water
5 to a ditch or dike, to promote a more even flow of water, or to protect outlets from erosion.

6 (c) Costs for leveling and filling needed to install an effective diversion system.

7 (d) Costs to remove obstructions, if necessary for the installation of an effective
8 diversion system.

9 (e) Costs to establish permanent vegetative cover, or to provide temporary cover until
10 permanent cover is established. This may include costs for mulch, fertilizer and other necessary
11 materials. Trees planted with cost-share funds may not be harvested commercially for 10 years.

12 (f) Fencing needed to protect a diversion from livestock.

13 (3) INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not be used to
14 install ditches or dikes that are designed to drain or impound water for later use, or that will be a
15 part of a regular irrigation system.

16 (4) DESIGN, CONSTRUCTION AND MAINTENANCE. A cost-share grant under s. ATCP 50.40
17 may not reimburse any costs to establish a diversion system unless all of the following
18 conditions are met:

19 (a) The diversion includes an adequate outlet that prevents erosion.

20 (b) The diversion complies with all the following that apply:

- 21 1. NRCS technical guide critical area planting standard 342.
- 22 2. NRCS technical guide dike standard 356.

1 3. NRCS technical guide diversion standard 362.

2 4. NRCS technical guide fencing standard 382.

3 5. NRCS technical guide grassed waterway standard 412.

4 6. NRCS technical guide lined waterway or outlet standard 468.

5 7. NRCS technical guide obstruction removal standard 500.

6 8. NRCS technical guide subsurface drain standard 606.

7 9. NRCS technical guide underground outlet standard 620.

8 (c) The farmer agrees to maintain the diversion for 10 years unless farming operations on
9 the affected land are discontinued.

10 **ATCP 50.73 Field windbreaks.** (1) DEFINITION. In this section, "field windbreak"
11 means a strip or belt of trees, shrubs or grasses established or restored within or adjacent to a
12 field, so as to control soil erosion by reducing wind velocities at the land surface.

13 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of
14 planting trees, shrubs or grasses to protect farm fields from wind erosion.

15 (3) DESIGN, CONSTRUCTION AND MAINTENANCE. A cost-share grant under s. ATCP 50.40
16 may not reimburse field windbreak costs unless all of the following conditions are met:

17 (a) The windbreak is protected from destructive grazing.

18 (b) The windbreak complies with all the following that apply:

19 1. NRCS technical guide fencing standard 382.

20 2. NRCS technical guide field windbreaks standard 392.

21 3. NRCS technical guide livestock exclusion standard 472.

1 (c) The farmer agrees to maintain the windbreak for 10 years unless farming operations
2 on the affected land are discontinued.

3 **ATCP 50.74 Filter strips.** (1) **ELIGIBLE COSTS.** A cost-share grant under s. ATCP
4 50.40 may reimburse the following filter strip costs:

5 (a) Permanent fencing to protect the filter strip.

6 (b) Costs to establish permanent vegetative cover in the filter strip, or to provide
7 temporary cover until permanent cover is established. This may include costs for mulch,
8 fertilizer and other necessary materials.

9 (c) Costs to shape, smooth or prepare the filter strip before establishing a permanent
10 vegetative cover.

11 (2) **DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant under s.
12 ATCP 50.40 may not reimburse filter strip costs unless all the following conditions are met:

13 (a) The filter strip complies with all the following that apply:

14 1. NRCS technical guide critical area planting standard 342.

15 2. NRCS technical guide fencing standard 382.

16 3. NRCS technical guide field border standard 386.

17 4. NRCS technical guide filter strip standard 393.

18 5. NRCS technical guide livestock exclusion standard 472.

19 6. NRCS technical guide mulching standard 484.

20 (b) The farmer agrees to maintain the filter strip for 10 years unless farming operations
21 on the affected land are discontinued.

1 **ATCP 50.75 Grade stabilization structures.** (1) DEFINITION. In this section, "grade
2 stabilization structure" means a structure which stabilizes the grade in a channel in order to
3 protect the channel from erosion, or to prevent gullies from forming or advancing. A "grade
4 stabilization structure" may include any of the following:

5 (a) Detention or retention structures such as dams, desilting reservoirs, sediment basins
6 and debris basins.

7 (b) Related structures such as channel linings, chutes, drop spillways or pipe drops.

8 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the
9 following:

10 (a) Costs to design, construct, repair or modify a grade stabilization structure.

11 (b) Costs for leveling and filling needed to install the structure.

12 (c) Costs to establish permanent vegetative cover, or to provide temporary cover until
13 permanent cover is established. This may include costs for mulch, fertilizer, seed and other
14 necessary materials.

15 (d) Costs for fencing to protect the structure.

16 (3) DESIGN, CONSTRUCTION AND MAINTENANCE. A cost-share grant under s. ATCP 50.40
17 may not reimburse any cost related to a grade stabilization structure unless all the following
18 conditions are met:

19 (a) The department pre-approves the structure in writing if the embankment structural
20 height is 15 to 25 feet, or the maximum storage capacity is 15 to 50 acre-feet.

21 (b) The structural height does not exceed 25 feet, and the maximum storage capacity
22 does not exceed 50 acre-feet.

7
1 (c) DNR pre-approves the structure in writing if the structure is adjacent to a navigable
2 stream or a stream supporting a fishery.

3 (d) The structure complies with all of the following that apply:

4 1. NRCS technical guide critical area planting standard 342.

5 2. NRCS technical guide diversion dam standard 348.

6 3. NRCS technical guide sediment basin standard 350.

7 4. NRCS technical guide dike standard 356.

8 5. NRCS technical guide fencing standard 382.

9 6. NRCS technical guide floodway standard 404.

10 7. NRCS technical guide grade stabilization structure standard 410.

11 8. NRCS technical guide grassed waterway standard 412.

12 9. NRCS technical guide lined waterway or outlet standard 468.

13 10. NRCS technical guide mulching standard 484.

14 11. NRCS technical guide subsurface drain standard 606.

15 12. NRCS technical guide underground outlet standard 620.

16 13. NRCS technical guide water and sediment control basin standard 638.

17 (e) The farmer agrees to maintain the grade stabilization structure for 10 years unless
18 farming operations on the affected land are discontinued.

19 **ATCP 50.76 Heavy use area protection.** (1) DEFINITION. In this section, "heavy use
20 area protection" means installation of surface material to control runoff and erosion in areas
21 subject to concentrated or frequent livestock activity. "Heavy use area protection" may include

1 establishing vegetative cover, or installing surfacing materials such as concrete, compacted stone
2 and stone fragments, or geotextiles.

3 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the
4 following costs related to heavy use area protection:

5 (a) Costs for surfacing materials in a barnyard runoff control system, manure storage
6 system or intensive grazing management system if necessary to facilitate removal of manure or
7 to protect groundwater.

8 (b) Costs for installing a permanent vegetative cover, including costs for mulch,
9 fertilizer, seed and other necessary materials.

10 (c) Costs for excavation, fill, grading and compacting.

11 (d) Costs for fencing needed to contain livestock in any barnyard runoff control system.

12 (3) DESIGN, CONSTRUCTION AND MAINTENANCE. A cost-share grant under s. ATCP 50.40
13 may not reimburse the cost of heavy use area protection unless all the following conditions are
14 met:

15 (a) The practice complies with all the following that apply:

16 1. NRCS technical guide critical area planting standard 342.

17 2. NRCS technical guide fencing standard 382.

18 3. NRCS technical guide heavy use area protection standard 561.

19 4. NRCS technical guide waste management system standard 312.

20 (b) The farmer agrees to maintain the heavy use area protection for 10 years unless
21 farming operations on the affected land are discontinued.

1 **ATCP 50.77 Intensive grazing management.** (1) DEFINITION. In this section,
2 "intensive grazing management" or "rotational grazing" means a grazing system which divides
3 pastures into multiple cells, each of which is grazed intensively for a short period and then
4 protected from grazing until its vegetative cover is restored.

5 **NOTE:** Intensive grazing management systems can prevent degradation resulting from
6 other pasturing practices. Intensive grazing management systems should replace
7 summer dirt lots when they result in water quality degradation.

8 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of
9 replacing animal lots or pastures, or establishing an intensive grazing management system on
10 croplands, that are currently contributing sediments, nutrients or pesticides to a water resource.
11 This may include any of the following costs:

12 (a) The cost to establish or repair livestock access lanes and stream crossings to prevent
13 instability and erosion.

14 (b) The cost to establish permanent boundary and main paddock fences. This may
15 include perimeter fencing, lane fencing, portable fencing and gates.

16 (c) The cost to establish good seeding stands for pasture and hayland planting.

17 (d) The cost to establish a livestock watering facility. This may include pipeline and
18 pasture watering systems, wells, spring developments, and portable watering systems such as
19 pumps, pipes and tanks.

20 **NOTE:** According to s. ATCP 50.42(4)(e), a cost-share grant under this section may not
21 include more than \$2000 for a watering system.

1 (3) DESIGN, CONSTRUCTION AND MAINTENANCE. A cost-share grant under s. ATCP 50.40
2 may not reimburse intensive grazing management costs unless the intensive grazing management
3 practices comply with all the following that apply:

- 4 (a) NRCS technical guide critical area planting standard 342.
- 5 (b) NRCS technical guide pasture and hayland planting standard 512.
- 6 (c) NRCS technical guide pasture and hayland management standard 510.
- 7 (d) NRCS technical guide livestock exclusion standard 472.
- 8 (e) NRCS technical guide streambank and shoreline protection standard 580.
- 9 (f) NRCS technical guide heavy use area protection standard 561.
- 10 (g) Guidelines specified in "Wisconsin pastures for profit: a hands on guide to rotational
11 grazing," published by the university of Wisconsin-extension, August 1994.

12 **NOTE:** Copies of "Wisconsin pastures for profit: a hands-on guide to rotational grazing"
13 are on file with the department, the secretary of state and the revisor of statutes.
14 Copies may be purchased from the department or from the university of
15 Wisconsin-extension (UWEX Pub. No. A3529).

- 16 (h) NRCS technical guide animal trails and walkways standard 575.

17 **ATCP 50.78 Livestock fencing.** (1) DEFINITION. In this section, "livestock fencing"
18 means either of the following:

- 19 (a) Excluding livestock, by fencing or other means, in order to protect an erodible area or
20 a practice under this subchapter.
- 21 (b) Restricting, by fencing or other means, human access to manure storage structures or
22 other practices under this subchapter which may pose a hazard to humans.

1 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse costs for
2 livestock fencing, including the cost of designing and installing permanent fencing, gates and
3 related devices.

4 (3) INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not reimburse the
5 costs for any of the following:

6 (a) Electric fence energizers.

7 (b) Portable fences and equipment used to contain or exclude livestock.

8 (c) Fencing, gates or other equipment used primarily for the purpose of segregating,
9 handling or feeding livestock, rather than protecting an erodible area or a practice under this
10 subchapter.

11 (4) DESIGN, CONSTRUCTION AND MAINTENANCE. A cost-share grant under s. ATCP 50.40
12 may not reimburse livestock fencing costs unless all the following conditions are met:

13 (a) The livestock fencing complies with all of the following that apply:

14 1. NRCS technical guide fencing standard 382.

15 2. NRCS technical guide livestock exclusion standard 472.

16 (b) The farmer agrees to maintain the livestock fencing practice for 10 years unless
17 farming operations on the affected land are discontinued.

18 **ATCP 50.79 Livestock watering facilities.** (1) DEFINITION. In this section, "livestock
19 watering facility" means a trough, tank, pipe, conduit, spring development, pump, well, or other
20 device or combination of devices installed to deliver drinking water to livestock.

21 (2) COST-SHARE ELIGIBILITY. A cost-share grant under s. ATCP 50.40 may reimburse
22 costs to establish a livestock watering facility if the livestock watering facility is a necessary

1 component of an intensive grazing management system funded under s. ATCP 50.77, or if all the
2 following conditions are met:

3 (a) The livestock watering facility will do one of the following:

4 1. Prevent nonpoint source water pollution by replacing livestock access to a stream or
5 other natural drinking water source.

6 2. Water livestock that are isolated from a natural drinking water source by another
7 conservation practice under this subchapter.

8 (b) The livestock watering facility is necessary to achieve water quality objectives or to
9 water livestock.

10 (c) Installing the livestock watering facility is less expensive than providing
11 environmentally safe livestock access to a natural source of drinking water.

12 (3) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of
13 designing and constructing a livestock watering facility.

14 (4) INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not reimburse costs
15 for any of the following:

16 (a) More than one livestock watering facility when the need for more than one watering
17 facility is created by the segregation or handling of livestock within a manure management
18 system. This paragraph does not apply when the need for more than one livestock watering
19 facility is created by the segregation or handling of livestock within an intensive grazing
20 management system.

21 **NOTE:** According to s. ATCP 50.42(4)(e), a cost-share grant for an intensive grazing
22 management system may not include more than \$2000 for a livestock watering

1 system. The \$2000 limit applies, regardless of the number of watering facilities
2 included in the watering system.

3 (b) A water supply used for purposes other than providing drinking water to livestock.

4 (c) Installing a livestock watering facility if there is a less expensive way to water
5 livestock, consistent with soil and water conservation goals.

6 (5) DESIGN, CONSTRUCTION AND MAINTENANCE. A cost-share grant may not reimburse
7 the cost of establishing a livestock watering facility unless all the following conditions are met:

8 (a) The livestock watering facility complies with all of the following that apply:

9 1. NRCS technical guide spring development standard 574.

10 2. NRCS technical guide trough and tank standard 614.

11 3. NRCS technical guide well standard 642.

12 4. NRCS technical guide pipeline standard 516.

13 5. Ch. NR 812, related to well construction and pump installation.

14 (b) The farmer agrees to maintain the livestock watering facility for 10 years unless
15 farming operations on the affected land are discontinued.

16 **ATCP 50.80 Milking center waste control systems.** (1) DEFINITIONS. In this section:

17 (a) "Milking center waste" means waste water, cleaning ingredients, waste milk or other
18 discharge from a milking parlor or milkhouse.

19 (b) "Milking center waste control system" means a system of facilities or equipment
20 designed to contain or control the discharge of milking center waste.

1 (2) COST-SHARE ELIGIBILITY. (a) A cost-share grant under s. ATCP 50.40 may
2 reimburse costs for a milking center waste control system if that system is installed in
3 conjunction with a manure management system needed to comply with state or local regulations.

4 (3) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the
5 following costs related to a milking center waste control system:

6 (a) Costs to design, construct, repair or modify a milking center waste control system,
7 including costs for appropriate waste pretreatment, waste storage and land irrigation equipment.

8 (b) Costs for conduits, pumps and related equipment required to transfer milking center
9 wastes, provided that the equipment is designed and used for that sole purpose.

10 (c) Other milking center waste control measures, approved by the department, that are
11 needed to meet identified water quality objectives. These measures may include conservation
12 sinks, pre-cooler water utilization systems, manifold cleaning systems, air injection systems,
13 filter strips used with appropriate waste pretreatment measures, recyclable water storage and
14 plumbing for automatic water and cleaning chemicals controls, waste milk diverter valves and
15 booster pumps for parlor floor cleaning.

16 (4) INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not reimburse any
17 of the following costs related to a milking center waste control system:

18 (a) Costs for any system, component or practice that is not needed to correct an identified
19 water pollution hazard.

20 (b) Buildings or modifications to buildings. This paragraph does not apply to building
21 modifications that are essential for the installation of a milking center waste control system.

1 (c) Portable equipment for spreading milking center wastes onto land or incorporating
2 those wastes into land.

3 (5) DESIGN, CONSTRUCTION AND MAINTENANCE. A cost-share grant may not reimburse
4 any costs related to a milking center waste control system unless all the following conditions are
5 met:

6 (a) The system complies with all the following that apply:

7 1. The university of Wisconsin-extension pollution control guide for milking center
8 waste water management (July 1994).

9 **NOTE:** The UW-extension pollution control guide for milking center waste water
10 management is on file with the department, the secretary of state and the revisor
11 of statutes. Copies may be purchased from the department or the university of
12 Wisconsin-extension (UWEX Pub. No. A3592).

13 2. NRCS technical guide filter strip standard 393.

14 3. NRCS technical guide irrigation system standard 442.

15 4. NRCS technical guide waste storage facility standard 313.

16 5. NRCS technical guide manure transfer standard 634.

17 6. NRCS technical guide nutrient management standard 590.

18 (b) The farmer agrees to maintain the milking center waste control system for 10 years
19 unless the milking operation is discontinued.

20 **ATCP 50.81 Nutrient and pesticide management.** (1) DEFINITIONS. In this section:

21 (a) "Nutrient management" means controlling the amount, source, form, location and
22 timing of plant nutrient applications, including application of organic wastes, commercial

1 fertilizers, soil reserves and legumes, in order to provide plant nutrients while minimizing the
2 movement of nutrients to surface water and groundwater.

3 (b) "Pesticide management" means controlling the storage, handling, use and disposal of
4 pesticides used in crop production in order to minimize contamination of water, air and nontarget
5 organisms.

6 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse costs for
7 nutrient management or pesticide management prescribed in a nutrient management plan. A
8 cost-share grant may reimburse any of the following costs related to nutrient and pesticide
9 management:

10 (a) Costs for soil and plant nutrient testing, including residual nitrogen analysis.

11 (b) Costs for nutrient analysis of manure and other organic waste.

12 (c) Costs for integrated pest management field scouting.

13 (d) Costs to develop or revise a nutrient or pesticide management plan.

14 (3) DESIGN AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not
15 reimburse nutrient or pesticide management costs under this section unless those practices
16 comply with all the following that apply:

17 (a) NRCS technical guide nutrient management standard 590.

18 (b) NRCS technical guide pesticide management standard 595.

19 (c) Pesticide mixing and loading standards under subch. VIII of ch. ATCP 29.

20 **ATCP 50.82 Relocating or abandoning animal feeding operations.** (1) DEFINITIONS.

21 In this section:

1 (a) "Abandonment" means discontinuing an animal feeding operation in order to prevent
2 surface water or groundwater pollution from that animal feeding operation.

3 (b) "Animal feeding operation" means a feedlot or facility, other than a pasture, where
4 animals are kept for 45 days or more in any 12-month period.

5 (c) "Relocation" means discontinuing an animal feeding operation at one site and
6 commencing that operation at a suitable alternate site in order to minimize the amount of surface
7 water or groundwater pollution from that animal feeding operation.

8 (2) COST-SHARE ELIGIBILITY. A cost-share grant under s. ATCP 50.40 may reimburse
9 costs incurred for the permanent relocation or abandonment of an animal feeding operation if all
10 the following conditions are met:

11 (a) The department or the county land conservation committee finds that relocation or
12 abandonment is the most practical and cost-effective way to achieve compliance with state or
13 local regulations.

14 (b) The department approves the relocation or abandonment plan.

15 (c) The farmer agrees, in a covenant that runs with the land, that no person may
16 reestablish an animal feeding operation at that site. The department may waive this requirement
17 if the department finds that the covenant is unnecessary.

18 (d) The covenant under par. (c) is recorded in the office of the register of deeds for each
19 county in which the property is located. }

20 (3) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the
21 following costs to relocate or abandon an animal feeding operation:

1 (a) Costs to install manure management systems and other conservation practices at a
2 new site, as authorized under this chapter.

3 (b) Costs to abandon and rehabilitate the current site, including costs for any of the
4 following:

5 1. Removing concrete paving, fencing, bunks, livestock housing structures, livestock
6 feeding structures and other obstructions.

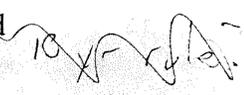
7 2. Grading and establishing vegetation on the site.

8 3. Excluding livestock from the site.

9 4. Abandoning wells on the site.

10 (c) Costs to move buildings and other structures.

11 (d) Costs to transport animals to a site in this state that is not on the same farm, up to a
12 maximum of \$5,000.

13 **NOTE:** Cost-share grants under this section are subject to the limitations specified
14 in s. ATCP 50.42(4)(c). 

15 **ATCP 50.83 Riparian buffers.** (1) DEFINITION. In this section, "riparian buffer"
16 means an area in which vegetation is enhanced or established to reduce or eliminate the
17 movement of sediment, nutrients and other nonpoint source pollutants to an adjacent surface
18 water resource or groundwater recharge area.

19 (2) ELIGIBLE COSTS. A cost-share grant may reimburse any of the following costs:

20 (a) Permanent fencing to protect a riparian buffer.

1 (b) Costs to establish permanent vegetative cover in a riparian buffer, or to provide
2 temporary cover until permanent cover is established. This may include costs for mulch,
3 fertilizer, seed, seedling trees and other necessary materials.

4 (c) Costs to shape, smooth or prepare the riparian buffer before establishing a permanent
5 vegetative cover.

6 (4) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-share
7 grant may not reimburse riparian buffer costs unless all the following conditions are met:

8 (a) The riparian buffer system complies with all of the following that apply:

- 9 1. Technical guide critical area planting standard 342.
- 10 2. Technical guide fencing standard 382.
- 11 3. Technical guide field border standard 386.
- 12 4. Technical guide filter strip/riparian vegetated buffer (interim) standard 393.
- 13 5. Technical guide livestock exclusion standard 472.
- 14 6. Technical guide mulching standard 484.

15 (b) The grant recipient agrees to maintain the riparian buffer for 10 years unless farming
16 operations on the affected land are discontinued.

17 **ATCP 50.84 Roofs.** (1) DEFINITIONS. In this section:

18 (a) "Roof" means a weather-proof covering that shields an animal lot or manure storage
19 structure from precipitation, and includes the structure supporting that weather-proof covering.

20 "Roof" does not include, except in the case of a manure storage structure, a covering over an
21 enclosed structure if the sum of the length of the walls of the structure exceeds 50 percent of the
22 perimeter of the covering. If a structure includes 2 or more square or rectangular areas, the ratio