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Chapter ATCP 50

SOIL AND WATER RESOURCE MANAGEMENT PROGRAM

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Note: Chapter Ag 166 was renumbered ch. ATCP 50 under s. 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 448. Chapter ATCP 50 was repealed and recreated, Register, November, 1996, No. 491, eff. 12-1-96; corrections in ch. ATCP 50 made under s. 13.93 (2m) (b) 7., Stats., Register, November, 1996, No. 491. Chapter ATCP 50 as it existed on September 30, 2002 was repealed and a new chapter ATCP 50 was created effective October 1, 2002.

Note: This chapter implements Wisconsin's soil and water resource management program under ch. 92, Stats. The department of agriculture, trade and consumer protection administers the program in cooperation with county land conservation committees, the land and water conservation board, the department of natural resources, and other state and federal agencies. The program has the purposes specified under s. 92.14 (2), Stats.

Note: The rule revision that was published in the May, 2007 Wis. Adm. Register applies to small businesses as defined in s. 227.114 (1), Stats., on August 1, 2007.

Subchapter I — Definitions and General Provisions

ATCP 50.01 Definitions. In this chapter:

(1) "Agricultural practice" means beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; grazing; livestock raising; orchards; poultry raising; raising of grain, grass, mint, or seed crops; raising of fruits, nuts, or berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; or vegetable raising.

(2) "Conservation practice" means a facility or practice that is designed to prevent or reduce soil erosion, prevent or reduce non- point source water pollution, or achieve or maintain compliance with soil and water conservation standards. "Conservation practice" includes a nutrient management plan and DATCP 01 Verification of Depth to Bedrock.

(2m) "Contaminated runoff" means runoff, as defined in s. NR 151.002 (40), that comes into contact with feed or manure. "Contaminated runoff" includes the liquid and any sediment, manure, feed, or other material carried in the liquid.

(3) "Cost-shared practice" means a conservation practice financed by a cost-share grant.

(4) "Cost-share grant" is a means to reimburse a landowner for part of the cost to install or maintain a conservation practice identified in the grant.

Note: See s. ATCP 50.40.

(4m) "Cost-sharing" means the action of financing a conservation practice by means of a cost-share grant.

(5) "County drainage board" means a board created and appointed under s. 88.17, Stats.

(6) "County land conservation committee" means the committee created by a county board under s. 92.06, Stats. "County land conservation committee" includes employees or agents of a county land conservation committee who, with committee authorization, act on behalf of the committee.

(7) "CREP program" means the combined state-federal conservation reserve enhancement program under s. 93.70, Stats. and 16 USC 3834(f)(4).

(8) "Department" means the state of Wisconsin department of agriculture, trade and consumer protection.

(9) "DNR" means the state of Wisconsin department of natural resources.

(10) "Farm" means a parcel of land on which a landowner conducts one or more agricultural practices.

(10g) "Financial Assistance" means funding in the form of a cost-share grant, incentives, performance payments or other payments that are provided to a landowner to adopt or install conservation practices.

(10r) "Incentive" means a form of a flat-rate payment or stipend made to a landowner to install conservation practices.

(12) "Individual" means a natural person.

(13) "Lake district" means a public inland lake protection and rehabilitation district created under subch. IV of ch. 33, Stats.

(13m) "Land conservation committee" means a committee created by a county board that meets the requirements in s. 92.06, Stats.

(14) "Land out of agricultural production" means acreage that the owner can no longer use for normal crop or livestock production. Land is not taken "out of agricultural production," for purposes of s. ATCP 50.08, if the landowner is free to use it for pasture, hay production, and cropping subject to residue management.

(15) "Landowner" means any of the following:

(a) A person who owns a parcel of land.

(b) A person who rents, controls, or uses a parcel of land for agricultural purposes.

(15m) "Leachate" means the concentrated liquid which has percolated through, or drained from, animal feed or manure storage areas.

Note: "Leachate" contains much higher concentrations of contaminants than contaminated runoff.

(16) "Livestock operation" means a feedlot or other facility or pasture where animals are fed, confined, maintained, or stabled.

(17) "Local governmental unit" has the meaning given in s. 92.15 (1) (b), Stats., and includes a county, town, city, village, lake district, and county drainage board.

(18) "Local regulation" means any of the following regulations that require conservation practices on farms:

(a) Soil and water conservation standards that a county land conservation committee adopts under s. 92.07 (2), Stats.

(b) An ordinance or regulation that a county adopts under s. 59.69, 59.692, 92.07 (2), 92.11, 92.15, 92.16, 92.17, or 93.90, Stats., or under other county authority.

(c) An ordinance or regulation that a town, city, or village adopts under s. 92.11, 92.15, 92.16, 92.17, or 93.90, Stats., or under other town, city, or village authority.

(d) A regulation adopted by a county drainage board, a lake district, or other special purpose district, or a tribe.

(19) "LWCB" means the state of Wisconsin land and water conservation board.

(20) "Manure" means livestock excreta. "Manure" includes the following when intermingled with excreta in normal farming operations: debris including bedding, water, soil, hair, and feathers; processing derivatives including separated sand, separated manure solids, precipitated manure sludges, supernatants, digested liquids, composted biosolids, and process water; and runoff collected from barnyards, animal lots, and feed storage areas.

(21) "Manure management system" has the meaning given in s. ATCP 50.62 (1) (b).

(22) "Manure storage facility" has the meaning given in s. ATCP 50.62 (1) (c).

(23) "Manure storage structure" has the meaning given in s. ATCP 50.62 (1) (d).

(24) "Nonpoint source" has the meaning given in s. 281.65 (2) (b), Stats.

(25) "Nonpoint source water pollution" has the meaning given in s. 281.16 (1) (f), Stats.

(26) "NRCS" means the natural resources conservation service of the United States department of agriculture.

(27) "NRCS conservation practice standard" means the standard found in the Wisconsin NRCS field office technical guide, unless otherwise specified.

Note: Copies of the NRCS conservation practice standards are on file with the department and the legislative reference bureau. Copies of individual standards contained in the NRCS field office technical guide may be obtained from a county land conservation department, an NRCS field office, the Wisconsin NRCS website at: http://www.wi.nrcs.usda.gov, or the national NRCS website at: http://www.nrcs.usda.gov/.

(28) "Nutrient management plan" means a farm nutrient plan prepared or approved by a qualified plan writer per s. ATCP 50.48 and meeting the requirements under s. ATCP 50.04 (3) or 50.62 (5) (f).

(29) "Nutrients" means plant nutrients derived from commercial fertilizers, manure, organic wastes, soil reserves, legumes, or other sources.

(29m) "Pasture" has the meaning given in s. NR 151.015 (15m).

(29s) "Performance payment" means payments provided to landowners in return for the landowner meeting certain conservation benchmarks. Performance payments can vary based on the conservation practice or practices used and the estimated environmental benefits.

(30) "Person" means an individual, corporation, partnership, cooperative association, limited liability company, trust, or other legal organization or entity.

(32) "Secretary" means the secretary of the department.

(32m) "Silurian bedrock" means the area in Wisconsin where the bedrock consists of Silurian dolomite with a depth to bedrock of 20 feet or less. This area comprises portions of the following counties: Brown, Calumet, Dodge, Door, Fond du Lac, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha. Areas where Silurian bedrock occurs in Wisconsin can be identified by the most current NRCS, Wisconsin Geological Natural History Survey, department of agriculture, trade and consumer

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protection, department of natural resources, county maps, or in-field bedrock verification methods.

(33) "State regulation" means ch. 88, 91, 92, 93, 281, or 283, Stats., and rules promulgated by the department or DNR under ch. 88, 91, 92, 93, 281, or 283, Stats.

(34) "Structural height" means the difference in elevation in feet between the point of lowest elevation of the structure or embankment before overtopping and the lowest elevation of the natural stream or lake bed at the downstream toe of the structure or embankment.

(34m) "Technical standard" refers to standards for which the department or DNR is a custodian.

(35) "Tribe" has the meaning given in s. 165.91 (1), Stats.

(36) "T-value" means the maximum average annual rate of soil erosion for each soil type that will permit a high level of crop productivity to be sustained economically and indefinitely. For most soils, "T-value" is equivalent to 1 to 5 tons of soil loss per acre per year.

(37) "Unconfined manure pile" means a quantity of manure, at least 175 cu. ft. in volume, that covers the ground surface to a depth of at least 2 inches and is not confined within a manure storage facility, livestock housing facility, or barnyard runoff control facility.

(38) "Waters of the state" has the meaning given in s. 283.01 (20), Stats.

(39) "Weighted average soil rental rate" means, for each county, the rate determined by the United States department of agriculture, farm service agency, on form CRP-2.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 04-005: r. and recr. (31) Register October 2004 No. 586, eff. 11-1-04; correction in (35) made under s. 13.93 (2m) (b) 7., Stats., Register November 2006 No. 611; CR 08-075: am. (31) Register April 2009 No. 640, eff. 5-1-09; CR 13-016: cr. (2m), r. (11), cr. (15m), am. (17), (18) (a) to (c), (20), cr. (29m), am. (31) (a), (b), (33) Register February 2014 No. 698, eff. 5-1-14; CR 23-024: am. (2), (2m), (4), cr. (4m), (10g), (10r), (13m), am. (27), consol. (28) (intro.) and (b) and renum. to (28) and am., r. (28) (a), cr. (29s), r. (31), cr. (32m), (34m), am. (36) Register May 2024 No. 821, eff. 6-1-24; correction in (13m), (28) made under s. 35.17, Stats., Register May 2024 No. 821.

ATCP 50.02 Waivers. The department may grant a written waiver from any provision of this chapter if the department finds that the waiver is necessary to achieve the objectives of this chapter. The secretary shall sign each waiver under this section. The department may not waive a statutory requirement.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02.

Subchapter II — Soil and Water Conservation on Farms

ATCP 50.04 Farm conservation practices. Except as provided in s. ATCP 50.08, a landowner engaged in agricultural practices in this state shall implement the following conservation practices:

(1) NONPOINT SOURCE POLLUTION CONTROL. A landowner shall implement conservation practices that achieve compliance with DNR performance standards under ss. NR 151.02 to 151.08, in effect on June 1, 2018. A nutrient management plan developed in accordance with sub. (3) may be used to demonstrate compliance with ss. NR 151.04 and 151.075.

Note: Landowners who claim farmland preservation tax credits must comply with conservation standards as required under s. 91.80, Stats.

(2) SOIL EROSION CONTROL. A landowner shall manage all lands where crops or feed are grown, including pastures, so that sheet, rill, and wind erosion rates on cropped and pastured soils do not exceed T-value. Sheet and rill erosion may be calculated using the RUSLE 2 equation or equivalent. Wind erosion may be calculated using the NRCS Wind Erosion Prediction System (WEPS).

Note: Copies of RUSLE 2 and the NRCS WEPS model are on file with the department and the legislative reference bureau. Copies of both models may also be obtained from the NRCS website at: http://www.wi.nrcs.usda.gov/technical.

(3) NUTRIENT MANAGEMENT PLAN. (a) A landowner shall have and follow an annual nutrient management plan when applying nutrients to any field, including pastures. A nutrient management plan shall comply with this subsection.

(b) The plan shall include every field on which nutrients are applied, including pastures, and pastures stocked at an average rate of more than one animal unit per acre during the grazing season. Pastures are not required to be included in the plan if all of the following requirements are met:

1. The pastures are stocked at an average stocking rate of one animal unit per acre or less at all times during the grazing season.

2. The pastures do not receive mechanical applications of nutrients.

Note: The grazing season includes the months of the year when pasture vegetation is actively growing.

(c) A nutrient management planner qualified under s. ATCP 50.48 shall prepare or approve the plan.

(d) The plan shall be based on soil nutrient tests conducted at a laboratory certified under s. ATCP 50.50 to conduct those tests. Soil tests are not required on pastures that do not receive mechanical applications of nutrients if either of the following applies:

1. The pastures are stocked at an average stocking rate of one animal unit per acre or less at all times during the grazing season.

2. The pastures are stocked at an average stocking rate of more than one animal unit per acre during the grazing season, and a nutrient management plan for the pastures complies with s. NR 151.04 (2), using an assumed soil test phosphorus level of 150 parts per million and organic matter content of 6%.

(de) A landowner may be required to provide documentation to the county land conservation committee that animal stocking rate and soil test values for pastures do not exceed the levels in par. (b) 1. and (d) 2., respectively.

(dm) If the nutrient management plan uses manure nutrient values, other than nutrient values of organic by-products regulated under ch. NR 113, 204 or 214, the manure nutrient values shall be based on one of the following:

1. Standard values specified in Nutrient Application Guidelines for Field, Vegetable and Fruit Crops, UWEX publication A2809 referenced in the NRCS conservation practice standard 590.

Note: The current 2012 version of UWEX pub. A2809 and subsequent editions are available at: https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx and are also on file with the department and the legislative fiscal bureau.

2. Manure analyses conducted at a laboratory that complies with s. ATCP 50.50 (8).

(e) The plan shall comply with the NRCS conservation practice standard 590 nutrient management (December, 2015) except for sections IV. D., IV. E., and V., and shall also comply with the *Wisconsin Conservation Planning Technical Note WI-1* (February, 2016).

Note: The NRCS conservation practice standard 590 (December, 2015) and the companion document Wisconsin Conservation Planning Technical Note WI-1 (February, 2016) are on file with the department and the legislative reference bureau. Copies are available from a county land conservation department, a NRCS field office, the national NRCS website at: http://www.nrcs.usda.gov, the Wisconsin NRCS website at: www.wi.nrcs.usda.gov, or the department website at: https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx. Components of a nutrient management plan are summarized on a checklist. An example nutrient management checklist is available at the department's website at: https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx.

(f) The plan may not recommend nutrient applications that exceed the amounts required to achieve applicable crop fertility levels recommended by the University of Wisconsin-Extension in

the 2012 edition of *Nutrient Application Guidelines for Field, Vegetable and Fruit Crops*, UWEX publication A2809, or in the latest edition of that publication if preferred by the landowner, unless the nutrient management planner can show that one or more of the following circumstances justifies the recommended application:

1. A soil or tissue test reveals a specific nutrient deficiency. For supplemental in-season nitrogen applications, a nutrient management planner shall follow steps outlined in NRCS conservation practice standard 590 nutrient management (December 2015).

Note: Environmental conditions can make it challenging to assess nutrient deficiencies. In-field scouting is strongly recommended to verify the nutrient deficiency is not a result of pest or disease pressure, and that an additional nutrient application will resolve the observed deficiency.

2. Excess nutrients are the result of an unforeseen change in the type of crop planted.

3. Excess nutrients are the result of manure applications made in the last year prior to the implementation of the nutrient management plan.

4. Other special agronomic conditions documented by the nutrient management planner. A nutrient management planner who wishes to justify higher applications shall include credible information to show that the higher applications will not materially increase environmental damage.

Note: The 2012 edition of the UWEX publication A2809 is on file with the department and the legislative reference bureau. The latest edition of A2809 is available from the UWEX website at: http://learningstore.uwex.edu. Copies are also available from the department website at: https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx.

(g) The plan shall be consistent with any nutrient management plan required under ch. NR 113, 204, or 214 if the landowner applies septage, municipal sludge, industrial waste, or industrial by-products to the land and in accordance with s. ATCP 65.22 (6) (c). A landowner is not required to have a nutrient management plan under this subsection if the landowner applies primarily septage, municipal sludge, industrial waste, or industrial byproducts according to ch. NR 113, 204, or 214.

(gm) A landowner or nutrient management planner qualified under s. ATCP 50.48 (2) shall annually review a nutrient management plan to determine whether the plan accurately reflects the planned cropping, tolerable soil loss, nutrient application rates, and application methods. The plan shall be updated, by a nutrient management planner qualified under s. ATCP 50.48, when necessary to reflect changes in those planned activities.

(i) A landowner is rebuttably presumed to comply with this section if the landowner complies with a nutrient management plan that is prepared or approved by a nutrient management planner who is qualified under s. ATCP 50.48.

(4) TILLAGE SETBACK. (a) A landowner shall manage cropland to achieve compliance with the DNR performance standard for tillage setback under s. NR 151.03.

(b) A landowner is not required to establish a tillage setback distance greater than 5 feet unless all of the following conditions are met:

1. The 5-foot setback distance is increased by the smallest increment necessary to achieve the purposes of s. NR 151.03, but in no case greater than a total setback distance of 20 feet.

2. In determining whether to increase the setback distance, county or other conservation professionals shall do all of the following:

a. Consider bank materials, height, slope, cause of bank erosion, soil type, and other factors that affect bank integrity.

b. Use best professional judgment, based on the latest technical standards and practices required under this chapter.

c. Follow a consistent approach in making determinations for increased setback distances by consulting with NRCS or department engineering specialists.

d. Provide the landowner with a written statement documenting the findings and conclusions in support of the increased setback distance.

(c) Determinations regarding compliance with this standard may be appealed as authorized under s. 227.42, Stats., or other provisions of law.

(5) SILURIAN BEDROCK. (a) A landowner shall manage cropland or pasture, or both, to achieve compliance with DNR performance standard for Silurian Bedrock under s. NR 151.075.

(b) A landowner is not required to comply with this section unless all of the following conditions are met:

1. They mechanically apply manure to cropland or pasture areas.

2. The cropland or pasture, or both, is located in an area of Silurian bedrock.

(c) A landowner is presumed to comply with this section if all of the following apply:

1. The landowner's nutrient management plan is written in accordance with s. ATCP 50.04 (3) and the plan incorporates the restrictions and prohibitions set forth in s. NR 151.075 where applicable.

2. The landowner uses any of the following, or any combination of the following:

a. Silurian bedrock maps developed by the department of agriculture, trade and consumer protection, the department of natural resources, or both, maps available from the University of Wisconsin department of soil science, maps available from the Wisconsin geological and natural history survey, or NRCS soil survey maps.

b. In-field bedrock verification conducted in compliance with s. ATCP 50.925.

3. The landowner uses weather and precipitation predictions to determine the appropriate timing of manure application.

Note: The Runoff Risk Advisory Forecast is an optional tool that highlights the highest risk within the forecast period of 3 days, with an extended forecast period of 10 days in the presence of frozen soils or snow, found at: http://www.manureadvisorysystem.wi.gov/runoffrisk/index.

(d) A landowner under par. (b) has until April 1, 2027, to comply with par. (a).

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 05-013: am. (3) (d), (e), (f) (intro.), 3. and (g), cr. (3) (dm) and (i), r. and recr. (3) (f) 4., r. (3) (f) 5. to 9., Register May 2007 No. 617, eff. 6-1-07; CR 08-075: am. (3) (dm) 1. and (e) Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (1), (2), (3) (a), renum. (3) (b) to (intro.) and am., cr. (3) (b) 1., 2., renum. (3) (d) to (intro.) and am., cr. (3) (d) 1., 2., (de), am. (3) (f) (intro.), cr. (3) (gm), am. (3) (h) (intro.), cr. (4) Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (3) (dm) 1., (e) Register May 2015 No. 713, eff. 6-1-15; CR 16-083: am. (1), (3) (dm) 1., (e), (f) (intro.), (g) Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (1), (2), (3) (a), (dm) 1., (e), (f) 1., 4., r. (3) (h), am. (3) (i), cr. (4) (c), (5) Register May 2024 No. 821, eff. 6-1-24; correction in (5) (d) made under s. 35.17, Stats., Register May 2024 No. 821.

ATCP 50.06 Installing conservation practices.

(1) GENERAL. A landowner may use any of the following to comply with s. ATCP 50.04, unless s. ATCP 50.04 mandates a specific practice:

(a) Conservation practices identified in subch. VIII or the NRCS field office technical guide.

(b) Other conservation practices that comply with s. ATCP 50.04.

(2) FUNDED PRACTICES. Conservation practices for which a landowner receives financial assistance under this chapter shall comply with subch. VIII.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 23-024: am. (1) (a), (2) Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.08 Cost-sharing required. (1) GENERAL. A landowner engaged in agricultural practices in this state is not required to do any of the following, under s. ATCP 50.04, unless the landowner receives a bona fide offer of cost-sharing:

(a) Discontinue or modify cropping practices on existing cropland. In this paragraph, "existing cropland" has the meaning given in s. NR 151.09 (4) (b).

(b) Discontinue or modify an existing livestock facility or operation. In this paragraph, "existing livestock facility or operation" has the meaning given in s. NR 151.095 (5) (b).

(2) COST-SHARE AMOUNT. A cost-share offer under sub. (1) shall cover at least 70% of the landowner's cost to install and maintain each required conservation practice, or 90% of the landowner's cost if there is an economic hardship under s. ATCP 50.42 (4).

(3) LANDOWNER'S COST. A landowner's cost to install and maintain a conservation practice includes all of the following that apply:

(a) The landowner's reasonable and necessary expenditures to install and maintain the conservation practice. This includes eligible installation costs identified in subch. VIII, and costs for engineering services under s. ATCP 50.40 (7).

(b) The reasonable value of necessary labor, equipment, and supplies provided by the landowner in the installation and maintenance of the conservation practice for the period required under subch. VIII or specified in the contract. This does not include normal operating routines such as clean-outs of barnyards, storage facilities, and gutters.

(d) The landowner's cost to take or keep land out of agricultural production, if the landowner must take or keep more than ½ acre out of agricultural production in order to install or maintain the conservation practice. The landowner's cost, determined on the date of the cost-share contract, equals the sum of the annual costs that the landowner will incur over the maintenance period specified in the cost-share contract. The landowner's annual cost, for each year of the maintenance period, equals the number of affected acres multiplied by the per-acre weighted average soil rental rate in the county on the date of the cost-share contract. This paragraph does not apply to land directly occupied by a facility or structure, such as a manure storage facility, that a landowner installs as part of the conservation practice.

(4) RIPARIAN LAND TAKEN OUT OF PRODUCTION; CREP-EQUIVALENT PAYMENT. (a) If a landowner must take or keep more than ½ acre of riparian land out of agricultural production in order to install or maintain a conservation practice, the cost-share offer under sub. (1) for that conservation practice shall be at least equal to the amount that would be offered under the CREP program if the affected lands were enrolled in that program, regardless of whether the lands are actually eligible for the CREP program.

(b) Paragraph (a) does not apply unless the landowner agrees to keep the land out of agricultural production for 15 years, or in perpetuity, under contract terms equivalent to those that apply under the CREP program.

(c) Paragraph (a) does not apply to a cost-share offer made after the CREP program expires.

(d) Paragraph (a) does not apply to land directly occupied by a facility or structure, such as a manure storage facility, that a landowner installs as part of the conservation practice.

(5) EXEMPTIONS. The cost-sharing requirement under sub. (1) does not apply to any of the following:

(a) A conservation practice that has already been cost-shared for at least 10 years. This exemption does not apply to costs under sub. (3) (d).

(b) The following conservation practices if those practices have already been cost-shared for 4 years:

1. Cover crops, as defined in s. ATCP 50.68 (1).
2. Nutrient management, as defined in s. ATCP 50.78 (1).
3. Residue management, as defined in s. ATCP 50.82 (1).
4. Conservation crop rotation, as defined in s. ATCP 50.668 (1).

(c) Conservation practices or costs for which cost-sharing is prohibited under s. ATCP 50.40 (3) (b) or subch. VIII.

(d) Conservation practices or costs to correct a landowner's criminal or grossly negligent discharge of pollutants to waters of the state.

(e) Conservation practices required by a WPDES permit issued under ch. NR 243.

(6) COMPLIANCE ACTIONS NOT AFFECTED. Subsection (1) does not limit any of the following:

(a) An emergency or interim response to a pollution discharge, to prevent or mitigate imminent harm to waters of the state.

(b) County action under s. ATCP 50.16 (6) to suspend a landowner's eligibility for farmland preservation tax credits, if the landowner fails to comply with conservation standards under s. ATCP 50.16 (1).

(c) Enforcement of an existing cost-share contract.

(7) COST-SHARE GRANT SOURCES. A grant from any public or private source, or combination of sources, may be counted as part of a cost-share grant under sub. (1). A loan is not a grant.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (5) (b) 6. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (1) (intro.) Register February 2014 No. 698, eff. 5-1-14; CR 23-024: am. (3) (b), r. (3) (c), r. and recr. (5) (b) Register May 2024 No. 821, eff. 6-1-24; correction in (5) (b) 1. to 4. made under s. 35.17, Stats., Register May 2024 No. 821.

Subchapter III — County Soil and Water Program

ATCP 50.10 County program; general. (1) PROGRAM ELEMENTS. Every county land conservation committee shall establish and maintain a county soil and water conservation program. The program shall include all of the following elements:

(a) A county land and water resource management plan under s. ATCP 50.12, and a program to implement that plan.

(b) A program to implement soil and water conservation standards.

(c) A program to prepare and submit annual reports under s. ATCP 50.18 and annual grant applications under s. ATCP 50.20.

(d) A program to receive, distribute, and account for soil and water resource management grants under this chapter.

(e) A procedure to ensure that conservation practices funded under this chapter are designed and installed according to this chapter.

(f) An accounting and recordkeeping system under s. ATCP 50.22.

(g) An information and education program to promote effective soil and water resource management.

(h) Other program elements, if any, required under this chapter.

(2) COORDINATION. A county land conservation committee shall, to the extent practicable, coordinate the program elements under sub. (1) with each other and with the related activities of

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NRCS, state agencies, other county departments, and other governmental entities.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 13-016: am. (1) (b) Register February 2014 No. 698, eff. 5-1-14; CR 23-024: consol (2) (intro.) and (b) and renum. to (2) and am., r. (2) (a) Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.12 Land and water resource management plan. (1) REQUIREMENT. A county land conservation committee shall prepare and submit, for department approval, a land and water resource management plan. The department shall approve the county plan before allocating any funds to the county under subch. IV.

(2) PLAN CONTENTS. A land and water resource management plan shall describe all of the following in reasonable detail:

(a) Water quality and soil erosion conditions throughout the county, including identification of the causes of water quality impairment and pollutant sources. The plan shall include water quality assessments for each watershed in the county if available from DNR.

(b) State and local regulations that the county will use to implement the county plan.

(c) Water quality objectives for each watershed, including any available pollutant load reduction targets, consistent with conditions identified in par. (a) if available from DNR.

(d) Key water quality and soil erosion problem areas consistent with conditions identified in par. (a).

(e) Conservation practices needed to address key water quality and soil erosion problems.

(f) A plan to identify priority farms and priority areas of resource concern in the county.

(g) County strategies to encourage voluntary implementation of conservation practices under s. ATCP 50.04. A county shall include information and education, cost-sharing and other financial assistance, and technical assistance needed to implement its plan.

(h) Compliance procedures, including notice, hearing, enforcement, and appeal procedures, that will apply if the county takes action against a landowner for failure to implement conservation practices required under this chapter, ch. NR 151, or related local regulations.

(i) The county's multi-year workplan to achieve the objectives identified in par. (c) to implement the farm conservation practices under s. ATCP 50.04, and achieve compliance with performance standards under ch. NR 151. The plan shall identify priorities, benchmarks for performance, and expected costs.

(j) The measurable annual and multi-year benchmarks the county will utilize to periodically monitor and measure its progress in meeting performance targets and achieving plan goals and objectives under the workplan in par. (i).

(jm) How a county will meet its responsibilities for monitoring conservation compliance of landowners claiming farmland preservation tax credits.

(k) How the county will provide information and education related to land and water conservation, including information related to farm conservation practices and cost-share funding.

(L) How the county will coordinate its land and water conservation program with federal, state, and local agencies.

Note: The department and DNR will work with counties to develop more detailed guidelines and suggestions for county land and water resource management plans, but individual counties have some flexibility and discretion to propose plans that are appropriate for their local conditions.

(3) PLAN DEVELOPMENT. A county land conservation committee, when preparing a land and water resource management plan, shall do all of the following:

(a) Appoint and consult with a local advisory committee of interested persons that reflects a broad spectrum of public interests and perspectives. The committee could include affected farmers, landowners and businesses, nongovernmental organizations, and federal, state, local and tribal officials, or other county departments.

(b) Assemble relevant data, including relevant land use, natural resource, water quality, and soil data.

(c) Consult with DNR.

Note: The county land conservation committee should normally consult with the appropriate DNR staff to obtain needed planning information, effectively address resource management concerns, and ensure that its plan incorporates elements that satisfy planning requirements under section 319 of the Clean Water Act.

(d) Assess resource conditions and identify problem areas.

(e) Establish and document priorities and objectives.

(f) Project available funding and resources.

(g) Establish and document a plan of action.

(h) Identify roles and responsibilities.

(4) PUBLIC NOTICE AND HEARING. Before a county land conservation committee submits a land and water resource management plan for department approval, the committee shall do all of the following:

(a) Hold at least one public hearing on the plan.

(b) Make a reasonable effort to notify landowners affected by committee findings under sub. (2) (d) and (e), and give them an opportunity to present information related to the accuracy of the committee's findings.

(5) PLAN APPROVAL. The department shall review a county land and water resource management plan, and shall approve or disapprove the plan after consulting with the LWCB. The department shall review the plan based on the criteria identified in this section, s. ATCP 50.30 (3), and s. 92.10 (6), Stats. The secretary shall sign the order approving or disapproving the county plan. The department shall approve a plan for a specified period of time that shall not exceed 10 years, subject to conditions that the department specifies in the order. The department's approval does not take effect if the county board does not approve the county plan.

(6) PLAN IMPLEMENTATION. The department may review county implementation of an approved county land and water resource management plan. The department may consider information obtained in its review when it makes annual grant allocations to counties under subch. IV.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 10-122: am. (5) Register July 2011 No. 667, eff. 8-1-11; CR 13-016: am. (2) (a), (c), (g), (i), (j), cr. (2) (jm) Register February 2014 No. 698, eff. 5-1-14; CR 23-024: am. (2) (a) to (d), (f), (g), (i), (3) (a) Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.14 County ordinances. A county may, by ordinance, require landowners to implement conservation practices required under s. ATCP 50.04. A county shall comply with applicable requirements under subch. VII.

Note: See county authority under ss. 59.69, 59.692, 92.11, 92.15, 92.16, and 92.17, Stats. This section does not expand a county's statutory authority. A county ordinance implementing conservation practices under s. ATCP 50.04 should be reasonably consistent with s. ATCP 50.04. A county livestock ordinance must comply with s. ATCP 50.60 and s. 92.15, Stats. DATCP may review and comment on a county ordinance (see ss. ATCP 50.12 and 50.54). Cost-sharing under a local ordinance must be at least equivalent to cost-sharing under s. ATCP 50.08 (see s. ATCP 50.54).

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02.

ATCP 50.16 Farmland preservation program; conservation standards compliance. (1) COMPLIANCE WITH STANDARDS REQUIRED. (a) Except as provided in pars. (d) and (e) and sub. (2), a landowner claiming farmland preservation tax credits shall comply with the standards and practices in s. ATCP 50.04.

(b) In determining landowner compliance under this section, the land conservation committee shall base its determination on all of the following:

1. Whether the entire farm operation owned by the landowner is in compliance with all the applicable conservation standards.

2. Whether a review of available documentation at the county demonstrates the entire farm operation owned by the landowner has no significant discharge from an animal lot, feed storage, manure storage, or other livestock structure on the farm.

3. Whether a review of available documentation at the county demonstrates the entire farm operation owned by the landowner has implemented a nutrient management plan in compliance with the nutrient management standard in s. ATCP 50.04 (3) for all land where a plan is required on the farm.

(c) Once determined to be in compliance with the nutrient management standard in s. ATCP 50.04 (3), a landowner shall remain in compliance with the nutrient management standard on the entire farm operation owned by the landowner. If a landowner increases acres of cropland or pasture by acquiring new land or converting acres to these uses, the landowner remains in compliance by updating the farm's nutrient management plan within one year to incorporate the additional cropland or pasture acres.

(d) A landowner claiming farmland preservation tax credits shall comply with the pasture requirement in ss. NR 151.02, 151.03, 151.04, and 151.055, beginning on January 1, 2016.

(e) A landowner claiming farmland preservation tax credits shall comply with the Silurian bedrock performance standard in s. NR 151.075, where applicable, beginning on April 1, 2027.

(2) EXCEPTIONS; FARMLAND PRESERVATION AGREEMENTS. (a) Except as required under par. (b), sub. (1) does not apply to landowners under a farmland preservation agreement entered into prior to July 1, 2009. Landowners with these agreements claiming farmland preservation tax credits under ss. 71.57 to 71.61, Stats., shall comply with the standards, specified in the agreement, on the land specified in the agreement, as required in ss. 92.104 and 92.105, 2007 Stats.

(b) Landowners who entered into, or modified, a farmland preservation agreement between July 1, 2009, and May 1, 2014, pursuant to the provisions in s. 91.60 (1) or (3) (c), Stats., shall comply with the soil and water conservation standards in effect at the time the agreement was entered into or modified.

(c) Landowners who enter into, or modify, a farmland preservation agreement after May 1, 2014, shall comply with the soil and water conservation standards in effect at the time the agreement was entered into or modified, and shall be required, under the terms of that agreement, to comply with the pasture requirement in s. NR 151.02, and ss. NR 151.03, 151.04, and 151.055, beginning January 1, 2016.

(d) Landowners who enter into, or modify, a farmland preservation agreement after April 1, 2027, shall comply with the soil and water conservation standards in effect at the time the agreement was entered into or modified, and shall be required, under the terms of that agreement, to comply with the Silurian bedrock performance standard in s. NR 151.075, where applicable. Landowners who entered into, or were successors of a farmland preservation agreement, signed or modified before April 1, 2027, who also claim the farmland preservation tax credit under zoning shall comply with sub. (1) (e).

(3) PERFORMANCE SCHEDULE. A county land conservation committee may enter into a written performance schedule with a landowner to obtain compliance with new standards under s. ATCP 50.04 if all of the following apply:

(a) The performance schedule, including amendments or extensions, does not allow the landowner more than 5 years, from the time the landowner is informed of their compliance obligations, to achieve compliance with all applicable conservation standards.

(b) The landowner agrees in writing to achieve compliance with the standards required under sub. (1) according to a specific schedule for completing the work.

(c) Every performance schedule shall include a notice that landowners are responsible for determining their eligibility to receive a farmland preservation tax credit independent of the landowner's commitment to implement the conservation practices set forth in the performance schedule.

(d) The land conservation committee approves the performance schedule, including the required practices and the time allowed to achieve compliance. The land conservation committee may establish shorter periods to achieve compliance than the 5 year maximum allowed under this subsection. A landowner is considered to be implementing the landowner's performance schedule if the landowner is making reasonable progress in installing the required practices and is taking other appropriate actions in the time frame identified by the land conservation committee in the performance schedule to achieve compliance.

(4) CERTIFICATE OF COMPLIANCE. (a) The county land conservation committee shall issue a certificate of compliance to a landowner claiming tax credits under s. 71.613, Stats., if the landowner meets the soil and water conservation standards as required by s. 91.80, Stats., and this section. The certificate shall be issued on the form provided by the department.

(b) A certificate establishing a landowner's compliance with s. 91.80, Stats., and this section remains in effect and valid until the county land conservation committee issues a notice of noncompliance under sub. (6) or the ownership of the covered land is transferred.

(c) A certificate of compliance may be amended or modified to reflect changes in ownership or a landowner's status.

(5) MONITORING COMPLIANCE. (a) A county land conservation committee shall monitor a landowner's compliance with applicable conservation standards promulgated by the department under ss. 92.05 (3) (c) and (k), 92.14 (8), and 281.16 (3) (b) and (c), Stats.

(b) A county land conservation committee shall inspect at least once every 4 years each farm for which the owner claims farmland preservation tax credits. At a minimum, an inspection shall include all of the following:

1. A site visit or other reliable assessment method to determine whether the entire farm owned by the landowner has significant discharges from an animal lot, feed storage, manure storage, or other livestock structure on the farm.

2. A review of the owner's records to determine whether the farmer is implementing a nutrient management plan in compliance with s. ATCP 50.04 (2) and (3).

(c) A county land conservation committee may conduct other activities the committee deems appropriate for monitoring compliance, including any of the following:

1. A county land conservation committee may ask a landowner to certify, on an annual or less frequent basis, that the landowner is complying with the applicable conservation standards under sub. (1) or (2) and any performance schedule under sub. (3). A landowner shall certify compliance on a form provided by the committee.

2. A county land conservation committee may inspect farm sites and review documents and records to determine compliance with applicable land and water conservation standards.

(d) A land conservation committee shall maintain adequate documentation of county monitoring efforts and inspection activities, on a form or set of forms provided by the land conservation committee, to enable the department to perform the review required under s. 91.82 (1) (d), Stats., of the county land conservation committee's monitoring required under this subsection.

(6) NOTICE OF NONCOMPLIANCE. (a) A county land conservation committee shall issue a written notice of noncompliance to a landowner if the committee finds that the landowner has done any of the following:

1. Failed to comply with applicable standards under sub. (1) or (2).

2. Failed to comply with a performance schedule under sub. (3).

3. Failed to permit a reasonable inspection under sub. (5) (a).

4. Failed to certify compliance in response to a committee request under sub. (5) (b).

5. Stated an intent to voluntarily refrain from collecting tax credits under subch. IX of ch. 71, Stats., and to waive the right to a hearing and farm inspection.

(b) A county land conservation committee shall issue a notice of noncompliance under par. (a) on the form provided by the department. Upon issuance of the notice, the landowner is ineligible to claim farmland preservation tax credits beginning in the year the notice of noncompliance is issued until such time as the county land conservation committee withdraws the notice of noncompliance under par. (d). The notice shall disclose all of the following:

1. The nature of the violation.

2. That the landowner may not claim farmland preservation tax credits under subch. IX of ch. 71, Stats., unless the landowner corrects the violation.

3. That the landowner may meet with the county land conservation committee to contest or discuss the violation.

(c) The county land conservation committee shall issue a copy of a notice under par. (a) to all of the following:

1. The state of Wisconsin department of revenue.

2. The county planning and zoning committee if the land is covered by a farmland preservation zoning ordinance.

3. The landowner.

4. The department.

(d) A county land conservation committee may, at any time, withdraw a notice of noncompliance issued under par. (a). The committee shall issue a notice of withdrawal on the form approved by the department. The committee shall give notice of the withdrawal to any agency under par. (c) that received a copy of the notice of noncompliance. A notice of withdrawal issued under this paragraph demonstrates that a landowner has been found in compliance with this section.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 13-016: r. and recr. (title), (1) to (5), am. (6) (a) 1., 2., cr. (6) (a) 5., am. (6) (b) 1., (c) (intro.), 2., (d) Register February 2014 No. 698, eff. 5-1-14; CR 16-083: am. (3) (a) (intro.), 2. to 4., r. (3) (b), am. (4), (6) (b) (intro.), cr. (6) (c) 3., 4., am. (6) (d) Register January 2018 No. 745, eff. 2-1-18; renum. (3) (a) to (3) (intro.) under s. 13.92 (4) (b) 1., Stats., correction in (6) (b) (intro.) made under s. 35.17, Stats., Register January 2018 No. 745; CR 23-024: am. (1) (a), cr. (1) (e), (2) (d), am. (3) (d) Register May 2024 No. 821, eff. 6-1-24; correction in (1) (a) made under s. 35.17, Stats., Register May 2024 No. 821.

ATCP 50.18 Annual report. (1) ANNUAL REPORT. By April 15 of each year, a county land conservation committee shall file with the department a year-end report for the preceding calendar year. The committee shall file the report on a form provided by the department. The report shall identify all of the following:

(a) The county's activities and accomplishments related to soil and water resource management during the preceding calendar year, including activities required or funded under this chapter.

(b) The county's progress toward the objectives identified in the county land and water resource management plan under s. ATCP 50.12, including whether the county's annual and multi-year benchmarks have been met. The report shall identify key areas of improvement, key compliance activities, and key remaining problem areas.

(2) FAILURE TO FILE ANNUAL REPORT. The department may withhold funding under this chapter from a county land conservation committee that fails to file a timely annual report under sub. (1).

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 13-016: am. (1) (b) Register February 2014 No. 698, eff. 5-1-14; CR 23-024: r. (1) (c) Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.20 Annual grant application. By April 15 of each year, a county land conservation committee shall file with the department its application for funding under this chapter for the next calendar year. The application shall comply with s. ATCP 50.26.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02.

ATCP 50.22 Accounting and recordkeeping. A county land conservation committee, in consultation with the county's chief financial officer, shall establish and maintain an accounting and recordkeeping system. The accounting and recordkeeping system shall do all of the following:

(1) Fully and clearly account for the receipt, handling, and disposition of all funds that the committee receives under s. 92.14, Stats., and this chapter.

(2) Document county compliance with s. 92.14, Stats., and this chapter, and each grant contract under this chapter.

(3) Include records required under s. ATCP 50.32 (9) related to annual staffing grants.

(4) Include records required under s. ATCP 50.34 (7) related to cost-share grants for conservation practices.

(5) Except as provided in this subchapter, retain originals of documents and forms submitted to the department, and other records related to the grant award and its administration including subcontracts and receipts, for a minimum of 3 years after the end of the year of the grant award.

Note: See s. ATCP 50.34 (7) for additional guidance.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 13-016: cr. (5) Register February 2014 No. 698, eff. 5-1-14.

ATCP 50.24 Department review. The department may review the activities of a county land conservation committee under this chapter. The department may do any of the following in connection with its review:

(1) Require the committee to provide relevant information requested by the department, including information from the county's annual financial and compliance audit.

(2) Require the committee to discuss, with the department, county compliance with this chapter.

(4) Inspect activities and practices funded under this chapter.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02.

Subchapter IV — Grants to Counties

ATCP 50.26 Grant applications. (1) ANNUAL APPLICATION. A county land conservation committee shall apply to the department by April 15 of each year on a form provided by the department by January 31st of each year, to obtain funding under this chapter for the next calendar year. The application shall comply with this section.

(2) ANNUAL STAFFING GRANT. A county land conservation committee may request funding for county staff and support, including funding for employees and independent contractors who work for the county land conservation committee. The request shall identify all of the following:

(a) The activities for which the county seeks funding. These may include activities under this chapter, ch. 91, Stats., and s. 93.90, Stats., CREP program activities, and activities and projects funded by DNR under ss. 281.65 and 281.66, Stats.

(b) The amount of funding requested for activities under par. (a), including staff salaries and fringe benefits, contractor fees, training, and eligible support costs.

(3) FUNDING FOR CONSERVATION PRACTICES. A county land conservation committee may request funding for cost-share grants to install conservation practices. The request shall include all of the following:

(a) The purposes for which the county proposes to award cost-share grants to landowners.

(b) The amount of funding requested for cost-share grants to landowners.

(4) OTHER INFORMATION. A county land conservation committee may include, with its grant application under sub. (1), any other information that the committee wishes to provide in support of its grant application. The department may ask the committee to provide additional information as necessary.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 13-016: am. (2) (a) Register February 2014 No. 698, eff. 5-1-14; CR 23-024: am. (1) Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.28 Annual grant allocation plan. (1) PLAN REQUIRED. The department shall allocate grants under this chapter according to an annual grant allocation plan. The secretary shall approve the grant allocation plan. The plan shall specify, for the next calendar year, all of the following:

(a) The total amount available to the department for possible allocation under the plan, including the subtotal amount from each of the following sources:

1. General purpose revenues appropriated under s. 20.115 (7) (c), Stats.

2. Segregated fund revenues appropriated under s. 20.115 (7) (qd), Stats.

3. Bond revenues appropriated under s. 20.866 (2) (we), Stats.

4. Other legislative appropriations.

5. Gifts and grants accepted under s. 92.05 (2) (a), Stats.

(b) The total amount allocated under the plan, and the subtotal amount allocated from each of the sources identified under par. (a).

(c) The amounts allocated to counties for annual staffing grants under s. ATCP 50.32. This shall include all of the following:

1. The total amount allocated to counties under s. ATCP 50.32, and the subtotal amount allocated from each relevant fund source under par. (a).

2. The total amount allocated to each county, and the subtotal amount allocated to that county from each relevant fund source under par. (a).

3. An explanation for the allocations, including any material differences in allocations between counties.

(d) The amounts allocated to counties under s. ATCP 50.34 to fund conservation practices by landowners. This shall include all of the following:

1. The total amount allocated to counties under s. ATCP 50.34, and the subtotal amount allocated from each relevant fund source under par. (a).

2. The total amount allocated to each county, and the subtotal amount allocated to that county from each relevant fund source under par. (a).

3. An explanation for the allocations, including any material differences in allocations between counties.

(e) The amount allocated to each grant recipient under s. 92.14 (10), Stats., if any, and an explanation for each allocation.

(2) PREPARING THE PLAN. (a) The department shall prepare an annual grant allocation plan under sub. (1) for each calendar year. The department shall prepare the plan with DNR after reviewing county grant applications under s. ATCP 50.26.

(b) The department shall do all of the following before the department adopts an annual grant allocation plan:

1. Provide a preliminary draft plan to DNR, the LWCB, and every county land conservation committee.

2. Obtain LWCB recommendations on the annual grant allocation plan, as required under s. 92.14 (6) (b) and (d), Stats. At least 30 days before the department obtains the LWCB's final recommendations, the department shall provide to DNR, the LWCB, and every county land conservation committee a copy of the draft plan on which the department seeks the LWCB's final recommendations and a copy of the draft environmental assessment written under ch. ATCP 3.02 (h) that accompanies the allocation plan.

3. If the department makes material revisions to the preliminary draft plan before seeking final LWCB recommendations, the department shall re-issue the revised draft at least 30 days before the LWCB makes its recommendations.

(c) The department shall adopt an annual grant allocation plan by December 31 of the year preceding the calendar year to which the plan applies. The final plan may include changes recommended by the LWCB, as well as updated estimates of project costs. The department shall provide copies of the allocation plan to DNR, the LWCB, and every county land conservation committee. The department shall report to the LWCB any changes that the department makes to the allocation plan recommended by the LWCB.

(3) INELIGIBLE COUNTIES. The department may not award a county grant under this chapter if any of the following apply:

(a) The county has failed to adopt a county land and water resource management plan under s. ATCP 50.12 (1), or lacks current department approval for that plan under s. ATCP 50.12 (5).

(b) The county has failed to submit an annual grant application required under s. ATCP 50.26.

(4) GRANT PRIORITIES. When preparing an annual grant allocation plan under sub. (1), the department shall consider the grant priorities under s. ATCP 50.30.

(5) REVISING AN ALLOCATION PLAN. (a) The department may revise an annual grant allocation plan after it adopts that plan under sub. (1). The secretary shall approve every plan revision. A revision may do any of the following:

1. a. Extend county funding for landowner cost-share contracts funded but not completed in the preceding grant year, provided that the cost-share contracts were signed by December 31 of the preceding grant year. Extensions shall comply with s. ATCP 50.34 (6).

b. Extend any grant contracts, except staffing grants under s. ATCP 50.32, funded but not completed in the preceding grant year, provided that the grant recipient requests the extension by December 31 of the preceding grant year and the department has not previously extended funding for the same contract from one grant year to another grant year. Extensions of projects funded under s. 92.14 (10), Stats., shall comply with s. ATCP 50.35 (3).

2. Increase the total grant to any county. The department shall give all counties notice and equal opportunity to compete for funding increases other than increases due to extensions under subd. 1., voluntary transfers of funds from one county to another county under subd. 5., and re-allocations of cost-share funds by the department under subd. 5. from a reserve established in the annual allocation plan. The department shall make any revisions in compliance with the requirements in par. (b).

3. Reduce a grant award to any county. The department shall give all counties notice and an opportunity to comment for funding decreases other than those resulting from the voluntary transfer of funds from one county to another county. The department shall make any revisions in compliance with the requirements in par. (b).

4. Reallocate a county's annual grant between grant categories, to the extent authorized by law and with the county's agreement.

5. Approve the voluntary transfers of cost-share funds from one county to another county, or re-allocations of funds by the department from a reserve established in the annual allocation plan. Inter-county transfers shall comply with s. ATCP 50.34 (5m).

(b) The department shall do all of the following before it revises an annual grant allocation plan, if required under par. (a):

1. Give written notice, and a copy of the proposed revision, to the LWCB, DNR, and every county land conservation committee. The notice shall clearly identify and explain the proposed revision.

2. Obtain LWCB recommendations as required under s. 92.14 (6) (b) and (d), Stats.

(c) The department shall notify the LWCB, no later than April 15 of the following year, of revisions made to the allocation plan based on transfers under par. (a) 5., re-allocations under par. (a) 4., and extensions of funds under par. (a) 1. The department shall keep records regarding the disposition of each transfer, reallocation, and extension requested.

(6) DISTRIBUTING GRANT FUNDS. The department shall enter into a grant contract under s. ATCP 50.36 with each grant recipient identified in the grant allocation plan. The contract shall conform to the allocation plan signed by the secretary. The department shall pay out grant funds according to this chapter and the grant contract.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (5) (a) 1. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (1) (e), renum. (5) (a) 1. to 1. a., cr. (5) (a) 1. b., am. (5) (a) 2., 3., cr. (5) (a) 5., am. (5) (b) (intro.), cr. (5) (c) Register February 2014 No. 698, eff. 5-1-14; CR 23-024: am. (2) (b) 2., cr. (2) (b) 3., am. (5) (a) 2. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.30 Grant priorities. When preparing an annual grant allocation plan under s. ATCP 50.28, the department shall consider all of the following:

(1) COUNTY PRIORITIES. The department shall give high priority to maintaining county staff and project continuity. The department shall consider county priorities identified in the county grant application under s. ATCP 50.26 and in the county's approved land and water resource management plan under s. ATCP 50.12, and shall balance funding these priorities with those in sub. (2).

(2) STATEWIDE PRIORITIES. The department shall give priority to county or non-county projects that address statewide priorities identified by the department and DNR.

(3) OTHER FACTORS. The department may consider the following factors when determining grant allocation priorities:

(a) A county's demonstrated commitment to implementing the approved land and water resource management plan under s. ATCP 50.12, and the strength of the documentation supporting that plan.

(b) A county's demonstrated commitment and capacity to implement and maintain the farm conservation practices required under s. ATCP 50.04.

(c) The likelihood that funded activities will address and resolve high priority problems identified in approved county land and water resource management plans.

(d) The relative severity and priority of the soil erosion and water quality problems addressed.

(e) The relative cost-effectiveness of funded activities in addressing and resolving high priority problems.

(f) The extent to which funded activities are part of a systematic and comprehensive approach to soil erosion and water quality problems.

(g) The timeliness and completeness of plans, applications, and reports.

(h) The degree to which plans, applications, and reports meet applicable criteria, including the adequacy of performance measures.

(i) A county's demonstrated cooperation and commitment, including its commitment of staff and financial resources.

(j) A county's demonstrated ability to manage and implement funded projects.

(k) The degree to which funded projects contribute to a coordinated soil and water resource management program and avoid duplication of effort.

(L) The degree to which funded projects meet county soil and water resource management needs and state program requirements.

(m) The degree to which county activities implement the county's approved land and water resource management plan.

(n) The county's annual financial contribution for soil and water resource management programs, as last reported under s. ATCP 50.26.

(o) The need for award caps or other cost control measures to maximize funding available to meet conservation priorities or needs on agricultural lands.

(p) A county's commitment to meet department targets implementing the conservation practices established in the annual grant application.

(r) Other factors relevant to the administration of this chapter.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 13-016: am. (1) (2) (intro.), (b) to (d), cr. (2) (e), (f), am. (3) (b), (g), (h), (m), renum. (3) (o) to (3) (r), cr. (3) (o), (p) Register February 2014 No. 698, eff. 5-1-14; CR 23-024: renum. (2) (intro.) to (2) and am., r. (2) (a) to (f) Register May 2024 No. 821, eff. 6-1-24; correction in (3) (n) made under s. 13.92 (4) (b) 7., Stats., Register May 2024 No. 821.

ATCP 50.32 Annual staffing grants to counties. (1) GENERAL. The department shall award an annual staffing grant to the county land conservation committee in each eligible

county. With the department's written permission, a county conservation committee may reallocate staffing grant funds to another agency of the county, or to a city, village, town, county drainage board, lake district, or tribe operating in the county.

(2) GRANT CONTRACT. The department shall distribute an annual staffing grant under sub. (1) according to an annual grant contract with the county. The contract shall comply with s. ATCP 50.36 and shall include all of the following:

(a) The total grant amount under sub. (1).

(b) The subtotal amount allocated from each relevant fund source under s. ATCP 50.28 (1) (a).

(c) Grant terms and conditions, including conditions required under this section.

(3) USE OF ANNUAL STAFFING GRANTS; GENERAL. A county may use an annual staffing grant under sub. (1) in the year for which the grant is made. The county may use the grant for any of the following purposes, subject to the terms of the grant contract:

(a) Employee salaries, employee fringe benefits, and contractor fees for county employees and independent contractors performing soil and water resource management activities for the county land conservation committee.

(b) Training for county employees and land conservation committee members to the extent authorized under sub. (3m).

(c) County employee support costs under sub. (4).

(d) Landowner cost-share grants, to the extent authorized under sub. (11).

(3m) TRAINING COSTS. An annual staffing grant may pay for any of the following county employee and land conservation committee member training costs, including registration fees, travel, and materials:

(a) Training in conservation planning and management, technical standards implementation, clerical assistance, computer usage, and communications.

(b) Courses building skills to perform current responsibilities or develop professionally in the field of soil and water management.

(c) Other training costs identified in the grant application for the grant year in which the funds are to be expended.

(4) STAFF SUPPORT COSTS. An annual staffing grant may pay for any of the following county employee support costs identified in the grant application:

(a) Mileage expenses at the state rate. A staffing grant may not be used to lease or purchase a vehicle.

(b) Personal computers, software, printers, and related devices.

(c) A proportionate share of the costs for required financial and compliance audits.

(d) Costs for information and education materials, newsletters, office supplies, maps and plats, photocopying, printing, and postage. This does not include rent or capital expenditures.

(e) Other staff support costs that the department identifies, in the grant application form, as being reimbursable for all counties.

(5) GRANT AMOUNTS. (a) The department may award different grant amounts to different counties under sub. (1), based on a consideration of factors identified in s. ATCP 50.30.

(am) The department shall offer each county a minimum staffing grant, as specified in the annual grant application, subject to the availability of funds.

(b) The total grant amount reimbursed to a county for training and support costs may not exceed 10% of a county's annual grant allocation.

(6) GRANT PAYMENTS. (a) The department shall make grant payments under sub. (1) on a reimbursement basis. The department shall pay reimbursement within 30 days after the county land conservation committee files a valid reimbursement request under sub. (7). The department shall pay reimbursement, at the rate provided under sub. (8), on reimbursable expenditures identified in the reimbursement request. Total payments may not exceed the total grant award under sub. (1).

(b) The department may reimburse eligible costs that are incurred during the grant year and paid by January 31 of the year following the grant year. The department may not reimburse any costs incurred after December 31 of the grant year, or paid after January 31 of the following year. Unspent funds remain with the department, for distribution under a future annual allocation plan.

(c) If a county redirects the unused portion of an annual staffing grant for cost-sharing to landowners, as provided in sub. (11), the department shall reimburse the county for cost-sharing to landowners according to s. ATCP 50.34.

(7) REIMBURSEMENT REQUESTS. (a) To obtain a reimbursement payment under sub. (6) (a), a county land conservation committee shall file a reimbursement request on the form provided by the department. A county may file a reimbursement request upon incurring sufficient expenses. A county may file a second reimbursement request for costs not covered by the first request. A county may file no more than 2 reimbursement requests, and shall file all reimbursement requests by February 15 of the year following the grant year.

(b) An authorized county representative shall sign each reimbursement request. The request shall certify that the county has fully paid the costs for which the county seeks reimbursement, and that those costs are eligible for reimbursement under this chapter and the grant contract.

(d) If a county reallocates grant funds to a local government or tribe under sub. (1), the county shall submit reimbursement requests on behalf of that local government or tribe. The county shall submit and certify each reimbursement request according to this subsection, based on information that the local government or tribe certifies to the county. The department may reimburse the local government or tribe based on a valid county request under this paragraph.

(8) REIMBURSEMENT RATE. (a) The department shall reimburse eligible county costs for employee salaries, employee fringe benefits, and independent contractor fees per the amount allocated under s. ATCP 50.28.

(b) The department may reimburse eligible county employee training and support costs at 100%, subject to sub. (5) (b).

(c) For the purpose of determining reimbursement rates under s. 92.14, Stats.:

1. A county may choose which employees or independent contractors are considered the county's first, second, and subsequent staff persons. The county's first, second, and subsequent staff persons may differ from those identified in the grant application submitted under s. ATCP 50.26 (1).

2. The department may reimburse eligible costs for the county's first designated staff person at 100%.

4. Except as provided under subd. 2., the department may reimburse eligible staffing costs at the rate prescribed in s. 92.14 (5g) (a), Stats.

(d) A county receiving an annual staffing grant under this chapter shall maintain its annual soil and water resource management expenditures, as required by s. 92.14 (7), Stats. A county may count, as part of its contributions under this paragraph,

county expenditures for employees and independent contractors who work for the county land conservation committee. A county may not count capital improvement expenditures, or the expenditure of grant revenues that the county receives from other governmental entities.

(9) RECORDS. (a) A county land conservation committee shall keep records related to annual staffing grants under this section. The records shall document that the county used grant funds according to this chapter and the grant contract. The county shall retain the records for at least 3 years after the end of the grant year.

(b) If a county reallocates grant funds to a local government or tribe, that local government or tribe shall also keep records under par. (a).

(10) BOND REVENUES MAY NOT BE USED FOR COUNTY STAFFING. Bond revenue funds may not be used for an annual staffing grant under sub. (1).

(11) REDIRECTING STAFFING GRANTS FOR COST-SHARE PAYMENTS TO LANDOWNERS. A county may redirect a portion of its annual staffing grant to fund cost-share grants to landowners under s. ATCP 50.34 if all of the following apply:

(a) The department approves, in writing, the total staffing grant amount that the county may redirect.

(b) The county uses the redirected funds in the year for which the funds are allocated.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (7) (a) Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (3) (b), cr. (3m), r. and recr. (5) (b), am. (7) (b), r. and recr. (7) (c) 4., am. (8) (b), (c) 2., r. (8) (c) 3., am. (8) (c) 4. Register February 2014 No. 698, eff. 5-1-14; CR 16-083: am. (7) (a) Register January 2018 No. 745, eff. 2-1-18; CR 23-024: cr. (5) (am), am. (6) (c), (7) (a), r. (7) (c), am. (8) (a), (c) 1., (d) Register May 2024 No. 821, eff. 6-1-24; correction in (8) (c) 1. made under s. 13.92 (4) (b) 7., Stats., Register May 2024 No. 821.

ATCP 50.34 Grants for conservation practices.

(1) GENERAL. The department may award an annual grant to each eligible county to provide financial assistance to landowners. The department shall award the grant to the county land conservation committee. The committee may provide financial assistance to landowners for conservation practices needed to comply with any of the following:

(a) Section ATCP 50.04.

(b) State or local regulations identified in the county's land and water resource management plan under s. ATCP 50.12 (2) (b).

Note: The committee may use funds for recording fees and other related costs allowed under this chapter, but may not award funds under this chapter to cover state or local permit fees.

(c) Objectives identified in the county land and water resource management plan under s. ATCP 50.12.

(d) Any applicable requirements or provisions in ch. 92, Stats.

(2) GRANT CONTRACT. The department shall make grant payments under sub. (1) according to an annual grant contract with the county. The contract shall comply with s. ATCP 50.36, and shall include all of the following:

(a) The total amount awarded under sub. (1).

(b) The subtotal amount awarded from each relevant fund source under s. ATCP 50.28 (1) (a).

(c) Project funding extensions under sub. (6), if any.

(d) Grant terms and conditions, including terms and conditions required under this section.

(3) GRANT PAYMENTS. The department shall make grant payments under sub. (1) on a reimbursement basis. The department shall reimburse the county after the county certifies that the conservation practice has been properly installed and paid for and contract terms are met. To obtain reimbursement, a county land conservation committee shall do all of the following that apply using forms provided by the department:

(a) File with the department a copy of the county's contract with the landowner and the supporting documentation specified in department forms to be submitted to obtain reimbursement. Cost-share contracts shall comply with s. ATCP 50.40 (8) and (9).

(b) Certify the amount of reimbursement due.

(c) Certify, based on documentation possessed by the county, that all applicable conditions in ss. ATCP 50.40 (10) to (12) and (14) and 50.41 are met.

(d) File all reimbursement requests and required documentation such as cost-share contracts or other documents to show payment conditions are met by February 15 of the year following the grant year.

(4) USE OF BOND REVENUES. (a) Bond revenue funds awarded under sub. (1) may be used for the following purposes, subject to par. (b) and the grant contract:

1. To finance conservation practices identified in subch. VIII, except that bond revenue funds may not be used to finance practices identified in s. ATCP 50.67, 50.68, 50.78, 50.79, 50.82, or 50.89.

2. To finance engineering services provided in connection with a conservation practice for which bond revenues may be used under subd. 1.

(b) The department may not use bond revenue funds to reimburse a county for services provided by county employees, or by independent contractors working for the county.

(5) UNSPENT FUNDS. The department may not use grant funds awarded to a county under sub. (1) to reimburse the county for costs that the county incurs after December 31 of the grant year, or pays after January 31 of the following year. Unspent funds remain with the department, for distribution under a future year's allocation plan.

(5m) INTER-COUNTY TRANSFERS. The department may approve an agreement between counties to transfer uncommitted grant funds if all of the following apply:

(a) The grant funds subject to the transfer were not previously extended by the transferring county.

(b) The county transferring the grant funds certifies to the department that it has an uncommitted portion of its allocation equal to or greater than the transfer amount, and has approval of its land conservation committee to make these funds available for transfer.

(c) The county receiving the grant funds has made a commitment to use the transferred funds on one or more specific projects, and has the approval of its land conservation committee to accept the transferred funds for cost-sharing on the specific projects.

(d) The counties apply for the transfer of grant funds on a form provided by the department. The department may require any information on the form reasonably necessary for the department to approve the transfer of funds.

(e) The grant funds being transferred were not part of their staffing allocation.

(6) EXTENSIONS. (a) If a grant under sub. (1) funds a landowner contract that is signed by December 31 of the grant year but not completed by December 31 of that year, the department may extend funding for that contract in the next year's grant allocation to the county if all of the following apply:

1. The county properly contracts with the landowner by December 31 of the initial grant year.

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

2. The landowner has not taken any action in violation of the contract.

3. The county land conservation committee files with the department, by December 31 of the initial grant year, a written request that identifies the projects for which the extended funds will be used, and the total funds to be extended. The department may, for good cause, accept an extension request filed between December 31 of the initial grant year and February 15 of the subsequent grant year.

4. The department has not previously extended funding for the same contract from one grant year to another.

(b) A county may transfer a funding extension under par. (a) from one landowner cost-share contract to another provided that the department approves an extension of both projects. Extended funds may not be used on new cost-share contracts.

(7) COUNTY RECORDS. (a) A county land conservation committee shall keep all of the following records related to grants under sub. (1):

1. Copies of all county contracts with landowners, including any provisions related to operation and maintenance of installed practices.

2. Documentary proof of all information that the county land conservation committee certifies to the department under this section.

3. Documentation of all county receipts and payments under this section.

4. Other records needed to document county compliance with this section and the grant contract.

(b) A county land conservation committee shall retain records under par. (a) for at least 3 years after the committee makes its last-payment to the landowner, or for the duration of the maintenance period required for the conservation practice under subch. VIII, whichever is longer. The committee shall make the records available to the department and grant auditors upon request.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (6) (a) (intro.) and 1. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (1) (b), cr. (1) (d), am. (3) (a), (d), cr. (5m), am. (6) (a) 3., (b) Register February 2014 No. 698, eff. 5-1-14; CR 23-024: am. (1), (3) (intro.), (a), (c), (d), (4) (a) 1., 2., (5m) (intro.), (b) to (d), cr. (5m) (e), am. (6) (a) (intro.), 2., 3., (b), (7) (a) 1., (b) Register May 2024 No. 821, eff. 6-1-24; correction in (3) (c) made under s. 35.17, Stats., Register May 2024 No. 821.

ATCP 50.35 Grants for other services. (1) Under s. 92.14 (10), Stats., the department may award a grant identified in the annual allocation plan to any person for services and activities including information, education, and training. The department shall enter into a grant contract with the grant recipient for the payment of these grant funds. The contract shall include relevant terms required under this section and ss. ATCP 50.34 and 50.36, and appropriate restrictions on reimbursement of costs.

(2) A person applying for a grant under s. 92.14 (10), Stats., shall file a written grant application by April 15 of the year preceding the year for which the department awards the grant. The grant application shall include a proposed budget and supporting documentation. The department may require a grant applicant to apply on a form provided by the department.

(3) Contracts under this section may be extended for a period of one year if all of the following apply:

(a) The grant recipient submits a written extension request by December 31 of the initial grant year, and identifies how the unspent funds will be used in the subsequent grant year. The department may, for good cause, accept an extension request filed between December 31 of the initial grant year and February 15 of the subsequent grant year.

(b) The grant is funded under s. 20.115 (7) (qf), Stats., or other provisions authorizing department expenditure of funds for grants other than the county staffing and support grants under s. ATCP 50.32.

(4) If a county is awarded a grant under this section, it shall do all of the following:

(a) Use the grant funds only for work specified in the grant contract required under sub. (1) and not for any work the county is authorized to perform under s. 92.14 (3) (a) through (f), Stats.

(b) Develop and implement county procedures to ensure that the county seeks reimbursement under this grant contract only for work authorized under this grant contract under sub. (1), and does not seek reimbursement under this grant contract for work performed under any other grant contract.

(5) Except as provided in this subchapter, a grant recipient under this section shall retain all records and forms related to the grant award and its administration, including original subcontracts, if any, and receipts for disbursements for a minimum of 3 years after the end of the year of the grant award.

History: CR 13-016: cr. Register February 2014 No. 698, eff. 5-1-14.

ATCP 50.36 Grant contracts. (1) COUNTY GRANT CONTRACTS. The department shall enter into an annual grant contract with a county land conservation committee for the payment of grant funds awarded to the county. The county land conservation committee shall approve the terms of the grant contract and any amendment before the grant contract or amendment is signed on behalf of the county. The contract shall include relevant terms required under this section and ss. ATCP 50.32, 50.34, and, if applicable, s. ATCP 50.35.

(2) OTHER GRANT CONTRACTS. (a) The department shall enter into a grant contract with every grant recipient awarded a grant under s. 92.14 (10), Stats.

(b) A grant contract under par. (a) shall conform to the grant allocation plan under s. ATCP 50.28. The contract shall specify grant terms and conditions, including terms required under this chapter. The contract shall specify the products and services that the grant recipient is expected to deliver.

(3) BREACH OF CONTRACT. (a) The department may withhold or demand return of grant payments if the department finds that the grant recipient has violated this chapter or breached its grant contract with the department.

(b) The department may seek other administrative or judicial sanctions, as appropriate.

(c) A grant recipient may appeal an administrative sanction under this section to the extent provided under ch. 227, Stats.

(4) CONTRACT CONTINGENT ON LEGISLATIVE APPROPRIATIONS. Grant payments to a county land conservation committee or other grant recipient under this chapter are contingent on the continued availability of legislative appropriations to fund those payments.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 13-016: am. (1), (2) (a) Register February 2014 No. 698, eff. 5-1-14; CR 23-024: renum. (3) to (3) (a), cr. (3) (b), (c) Register May 2024 No. 821, eff. 6-1-24; correction in (1) made under s. 35.17, Stats., Register May 2024 No. 821.

Subchapter V — Financial Assistance to Landowners

ATCP 50.38 Financial assistance to landowners. (1) A county land conservation committee may use grant funds awarded to the county under s. ATCP 50.34 or 50.35 to provide financial assistance to landowners.

(2) A county land conservation committee's authority to acquire and distribute grant funds from other sources is not restricted by this subchapter.

(3) A county land conservation committee may determine all the following, subject to this chapter:

(a) The landowners who will receive financial assistance.

(b) The conservation practices that will be eligible for financial assistance.

(c) The form of financial assistance.

(d) The costs for each conservation practice or conservation performance measure that will receive financial assistance.

(e) The rate of financial assistance.

(4) No county employee or land conservation committee member may:

(a) Take any official action substantially affecting a matter which the individual, a member of their immediate family, or an organization with which the individual is associated has a substantial financial interest.

(b) Use their office or position in a way that produces or assists in the production of substantial benefit, direct or indirect, for the individual, one or more members of the individual's immediate family either separately or together, or an organization with which the individual is associated.

History: CR 23-024: cr. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.40 Cost-share grants to landowners. (1) GENERAL. A county land conservation committee may use grant funds awarded to the county under s. ATCP 50.34 to make cost-share grants to landowners for any of the purposes authorized under s. ATCP 50.34 (1). Cost-share grants shall comply with this subchapter.

Note: This subchapter regulates a county's use of grant funds awarded under s. ATCP 50.34. It does not limit a county's authority to acquire and distribute cost-share grant funds from other governmental or private entities.

(2) COST-SHARING REQUIRED. (a) A county may not do any of the following, under this chapter or a local regulation, unless the county land conservation committee first offers cost-sharing that is at least equal to the cost-sharing required under s. ATCP 50.08:

1. Require a conservation practice that discontinues or modifies cropping practices on existing cropland. In this paragraph, "existing cropland" has the meaning given in s. NR 151.09 (4) (b).

2. Require a conservation practice that discontinues or modifies an existing livestock facility or operation. In this paragraph, "existing livestock facility or operation" has the meaning given in s. NR 151.095 (5) (b).

(b) Paragraph (a) does not apply to a nutrient management plan required under a permit for a manure storage system voluntarily constructed by a landowner.

(c) Paragraph (a) does not limit any of the following:

1. An emergency or interim response to a pollution discharge, to prevent or mitigate imminent harm to waters of the state.

2. County action under s. ATCP 50.16 (6) to suspend a landowner's eligibility for farmland preservation tax credits, if the landowner fails to comply with conservation standards under s. ATCP 50.16 (1).

3. The enforcement of an existing cost-share contract.

(d) Paragraph (a) does not apply to requirements imposed on a livestock facility operator in connection with a local approval or permit issued pursuant to s. 93.90, Stats., and ch. ATCP 51.

(3) COST-SHARED PRACTICES. (a) A cost-share grant may fund conservation practices identified under subch. VIII, or other conservation practices that the department approves in writing, regardless of whether those conservation practices are required or voluntary.

(b) A cost-share grant may not be used to do any of the following, except as specifically authorized under subch. VIII:

1. Pay for the installation of a conservation practice if that installation occurred before the landowner entered into the cost-share contract.

2. Correct overtopping of a manure storage facility.

3. Move a manure stack.

4. Drain wetlands, as defined in s. 23.32, Stats.

5. Increase drainage of land.

6. Dredge a harbor, lake, river, or drainage ditch.

7. Prevent or clean up spills of pesticides, fertilizers, or other agricultural chemicals from commercial bulk storage facilities.

8. Grow or harvest trees.

9. Install, operate, or repair a septic system.

10. Install or modify a flood control structure.

11. Destroy significant wildlife habitat, unless the landowner agrees to restore the habitat at the landowner's expense.

12. Pay for the installation of a practice on land owned by the state of Wisconsin.

13. Bring a permittee into compliance with standards required under a WPDES permit under chs. 281 and 283, Stats.

14. Pay for any state or local administrative permit fees.

(4) ELIGIBLE COSTS. A cost-share grant may pay for relevant costs identified in s. ATCP 50.08 (3) and (4), regardless of whether cost-sharing is required under sub. (2) or s. ATCP 50.08. A cost-share grant may pay for the costs incurred by a county or landowner in recording, with the county register of deeds, any cost-share contract, whether or not recording is required under s. ATCP 50.40 (14). A cost-share grant may not pay for ineligible costs identified under sub. (3) (b) or subch. VIII.

(5) COST-EFFECTIVE PRACTICES. A county land conservation committee shall consider whether a cost-shared practice will be cost-effective. The committee shall consider all of the following:

(a) The predicted conservation benefits of the practice.

(b) The minimum practice needed to achieve the conservation objective.

(c) The cost of the practice compared to feasible and effective alternatives.

(d) The practical effects of the practice on the agricultural operation.

(6) MAXIMUM COST-SHARE RATES AND AMOUNTS. Cost-share rates and amounts may not exceed the maximum rates and amounts specified in s. ATCP 50.42.

(7) ENGINEERING SERVICES. (a) A cost-share grant may include funding for engineering services needed to do any of the following:

1. Design a cost-shared practice.

2. Supervise the installation of a cost-shared practice.

3. Certify that a cost-shared practice has been properly installed.

(b) A cost-share grant may reimburse the cost of engineering services under par. (a) provided by a professional engineer registered under ch. 443, Stats., or a conservation engineering practitioner certified at the applicable rating under s. ATCP 50.46. A cost-share grant may not reimburse the cost of engineering services provided by the county land conservation committee or its agent.

(c) Funding for engineering services under par. (a) may not exceed the lesser of the following:

1. 70% of the actual cost of the engineering services.

2. 15% of the total eligible cost of the cost-shared practice, exclusive of engineering costs.

(8) COST-SHARE CONTRACT. A county land conservation committee shall enter into a written contract with every landowner to whom the committee awards a cost-share grant. The department shall approve, in writing, any cost-share contract that provides for more than $50,000 in cost-share payments.

(9) CONTRACT TERMS. A cost-share contract under sub. (8) shall include all of the following:

(a) The landowner's name and address.

(b) The purpose for the cost-share grant.

(c) The location of the land on which the cost-shared practice is to be installed, and a specific legal description of the land if cost-share payments may exceed $14,000.

(d) Specifications for the cost-shared practice, including engineering specifications for any conservation engineering practice identified under s. ATCP 50.46 (2).

(e) The total estimated cost of the cost-shared practice. The total cost may include the cost to install the practice and the cost to maintain the practice for the period of time specified in the contract. Costs may include any applicable costs under sub. (4). A county shall use applicable cost containment procedures under sub. (16) when determining the estimated cost.

(f) The cost-share rate or amount. The cost-share rate or amount may not exceed the rate or amount allowed under s. ATCP 50.42.

(g) The amount, if any, that the county land conservation committee will pay for engineering services under sub. (7).

(h) A timetable for constructing and installing the cost-shared practice.

(i) Applicable conditions required under this section.

(j) The period of time for which the landowner agrees to maintain the cost-shared practice in return for the cost-share grant. The landowner shall agree to maintain the cost-shared practice for at least the period of time required under subch. VIII, or replace it with an equally effective practice. The landowner shall refrain, during the maintenance period, from any action that may reduce the effectiveness of the cost-shared practice.

(k) An agreement that the landowner will repay the full amount of the cost-share grant immediately, upon demand by the county land conservation committee, if the landowner fails to operate and maintain the cost-shared practice according to the contract.

(L) If the contract provides for a cost-share grant that exceeds $14,000, an agreement that the contract runs with the land and is binding on subsequent owners or users of the land for the period of time required under subch. VIII.

(m) Provisions authorizing the county land conservation committee to stop work or withhold cost-share grant payments if the committee finds that the landowner has breached the contract.

(n) Appropriate pre-approval procedures for making any construction changes that may affect the terms or amount of the cost-share grant.

(o) Other terms or conditions specified by the county land conservation committee.

(10) DESIGN AND INSTALLATION. A cost-shared practice shall be all of the following:

(a) Designed and installed according to subch. VIII and the cost-share contract.

(b) Installed in compliance with applicable construction site erosion control standards contained in the DNR Storm Water Construction Technical Standards, in effect on June 1, 2018.

Note: A copy of these technical standards can be found at the DNR website at: http://dnr.wi.gov/topic/stormwater/standards/index.html. Copies of these technical standards are also on file with the department and the legislative reference bureau.

(11) PAYMENT CONDITIONS MET. Before a county land conservation committee pays for any cost-shared practice, or requests any cost-share reimbursement from the department under s. ATCP 50.34 (3), the committee shall document all of the following:

(a) That the landowner has made, for that cost-shared practice, all payments for which the landowner is responsible under the cost-share contract.

(b) That the cost-shared practice is designed and installed according to sub. (10). If the cost-shared practice is a conservation engineering practice identified under s. ATCP 50.46 (2), one of the following shall certify in writing that the practice complies with sub. (10):

1. A professional engineer registered under ch. 443, Stats.

2. A conservation engineering practitioner certified under s. ATCP 50.46.

3. A well driller or pump installer registered under s. 280.15, Stats., if the conservation engineering practice consists of well construction or decommissioning.

5. An architect registered under ch. 443, Stats., if the conservation engineering practice consists of a roof structure.

(c) That the landowner's nutrient management plan complies with s. ATCP 50.04 (3), if the cost-shared practice includes a nutrient management plan.

(12) PARTIAL PAYMENTS. A county land conservation committee may make partial payments for completed portions of a cost-shared practice if all of the following apply:

(a) The committee documents, for that completed portion, the information required under sub. (11).

(b) The completed portion provides independent conservation benefits.

(c) The committee distributes no more than 90% of the total cost-share grant in partial payments.

(13) PAYMENT RECIPIENTS. A county land conservation committee shall make cost-share payments to the contracting landowner, except that the committee may do any of the following:

(a) Make cost-share payments by multi-party check payable to the landowner and any contractors who designed or installed a cost-shared practice for the landowner, if the landowner or any of the contractors asks the committee to do so.

(b) Make a cost-share payment to an assignee whom the landowner designates in writing.

(14) RECORDING CONTRACTS WITH REGISTER OF DEEDS. (a) If a county contract with a landowner exceeds $14,000, the county or the landowner shall record the contract with the county register of deeds before the county makes any cost-share payment to the landowner.

(b) If recording is required under this subsection, the county shall record the cost-share contract before making any reimbursement payments to the landowner or grant recipient.

(c) Recording a contract which exceeds the amount in par. (a) is not required if the contract is only for conservation practices listed in s. ATCP 50.08 (5) (b).

(d) A county may choose to voluntarily record any contract in which cost-share payments under this chapter were awarded.

(e) Cost-share funds can be used to record any contract authorized under this chapter.

(15) LANDOWNER INSTALLATION AND MAINTENANCE. (a) With the approval of the county land conservation committee, a

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landowner may personally install a cost-shared practice. The committee may give its approval if all of the following apply:

1. The landowner is competent to install the practice.

2. The landowner can install the practice at least as cheaply as other available contractors.

3. The landowner submits a qualified bid if the committee requires bidding under sub. (16) (b).

(b) If the value of a landowner's installation or maintenance service is considered for cost-sharing purposes, the landowner shall submit a detailed invoice or cost-estimate for those services.

(16) COST CONTAINMENT. A county land conservation committee shall adopt one or more of the following cost containment procedures, or other procedures that are equally effective, when estimating and paying for a cost-shared practice:

(a) The committee may base cost-share grants on typical or maximum acceptable costs for the conservation practice, even if actual costs are higher.

(b) The committee may require competitive bidding, and may determine a cost-share grant amount based on low bid cost, regardless of whether the contracting landowner selects the low bidder. The committee may specify bidding procedures that it considers appropriate. The committee shall require competitive bidding if the cost-share contract may exceed $25,000.

(c) The committee may use its own employees or agents to design, construct, or install a cost-shared practice if, by doing so, it can minimize public costs related to the practice. The committee may charge the staff costs to its staffing grant award under s. ATCP 50.32, but not to its cost-share grant award under s. ATCP 50.34. If a county reallocates staffing grant funds to a city, village, town, county drainage board, lake district, or tribe with the department's approval, that local government or tribe may use those staffing grant funds in the same manner.

(17) COMBINED GRANTS. Cost-share grants under this chapter may be combined with grants from other federal, state, local, and private sources. Except as restricted under s. ATCP 50.42 (1), department funds allocated under this chapter may be combined with DNR funds allocated under s. 281.65 or 281.66, Stats., to finance up to 70% of the total cost of a project, or up to 90% in cases of economic hardship under s. ATCP 50.42 (4). This subsection does not limit the use of cost-sharing or financial assistance from other sources, including other sources authorized under state law. A cost-share grant under this chapter may not reimburse a landowner for any costs that another governmental entity is also reimbursing.

(18) LAND TAKEN OUT OF AGRICULTURAL PRODUCTION; EASEMENT. A cost-share contract to take land out of agricultural production may provide for a recorded easement to implement the contract. The easement shall be consistent with the cost-share contract, and the duration of the easement shall be consistent with the maintenance term specified in the cost-share contract. Before the landowner signs the cost-share contract, the county land conservation committee shall provide the landowner with the document that the landowner would sign to create the proposed easement. The county land conservation committee shall promptly record the easement document with the county register of deeds after the landowner signs that document.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 04-005: am. (9) (L) Register October 2004 No. 586, eff. 11-1-04; CR 13-016: cr. (2) (d), (3) (b) 12. to 14., am. (4), (7) (b), renum. (9) (c) (intro.) to (c), r. (9) (c) 1. to 3., am. (9) (d), renum. (9) (L) (intro.) to (L), r. (9) (L) 1. to 3., am. (9) (n), (10) (b), (11) (b) (intro.), 2., 3., r. (14) (a) to (c), renum. (14) (intro.) to (14) (a) and am., cr. (14) (b) to (d), am. (17) Register February 2014 No. 698, eff. 5-1-14; CR16-083: am. (3) (b) 13., cr. (11) (b) 4. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: renum. (1) (a) to (1), r. (1) (b), am. (10) (b), r. (11) (b) 4., cr. (11) (b) 5., (14) (e), am. (17), r. (19) Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.41 Other forms of financial assistance.

(1) OTHER FORMS OF FINANCIAL ASSISTANCE. Counties may use funds granted under ss. ATCP 50.34 and 50.35 to provide other forms of financial assistance to landowners, including any of the following:

(a) Incentive payments.

(b) Performance payments.

(c) Other payment types authorized by or not prohibited under state law.

(2) PROHIBITED PAYMENTS. The following uses of financial assistance provided under this subsection are prohibited:

(a) Costs or activities that have or will be reimbursed by any other source of governmental funding.

(b) Costs that will exceed 70% of the total cost of a project, or up to 90% in the cases of economic hardship for installation of a practice. This does not limit the use of financial assistance from other non-governmental sources.

(c) Activities prohibited under s. ATCP 50.40 (3) (b).

(3) FINANCIAL ASSISTANCE CONTRACT. Counties shall enter into a written contract with every landowner to whom the committee awards financial assistance not already covered under s. ATCP 50.40 (8).

(4) FINANCIAL ASSISTANCE CONTRACT TERMS. A contract under sub. (3) shall include all of the following:

(a) The landowner's name and address.

(b) The purpose for the financial assistance.

(c) The rate or amount of financial assistance.

(d) A timetable for completing the contract requirements.

(e) The terms the landowner must meet to receive the financial assistance.

(f) An agreement that the landowner will repay the full amount of the financial assistance immediately, upon demand by the county land conservation committee, if the landowner fails to meet the terms of the contract.

(g)
Provisions authorizing the county land conservation committee to withhold financial assistance if the committee finds that the landowner has breached the contract.

(5) PAYMENT CONDITIONS MET. Before a county land conservation committee requests any reimbursement from the department under s. ATCP 50.34, 50.35, or 50.36, the committee shall document the landowner met the terms of the contract.

History: CR 23-024: cr. Register May 2024 No. 821, eff. 6-1-24; correction in (5) made under s. 35.17, Stats., Register May 2024 No. 821.

ATCP 50.42 Maximum rates. **(1)** MAXIMUM RATES. (a) Except as provided under pars. (b) to (e), financial assistance under this chapter may not exceed 70% of the total eligible costs allowed under s. ATCP 50.40 (4) to install and maintain the conservation practice for the period specified in the grant contract. This paragraph does not limit the use of financial assistance from other sources, except when financial assistance provided under this chapter is combined with other government funds or from programs authorized by the state of Wisconsin the total funding from all government sources cannot exceed 100% of the project costs.

(b) The maximum financial assistance rate under par. (a) is 90% if there is an economic hardship under sub. (4).

(bm) The economic hardship provision under sub. (4) is available to owners and grant recipients who operate farms and is not available to non-farmers.

(c) For cropping practices identified in sub. (2), a county land conservation committee may pay up to the amount authorized under this subsection or sub. (2), whichever is higher.

(d) For more than ½ acre of riparian land taken out of agricultural production to install a conservation practice, a county land conservation committee may pay a qualified landowner up to the CREP-equivalent amount authorized in s. ATCP 50.08 (4) if that amount exceeds the relevant amount authorized under this subsection.

(dg) The cost-share payments for the following conservation practices may not exceed 50% of the total eligible costs to install and maintain the practice unless the landowner is required to install the practice to achieve compliance with an agricultural performance standard under ss. NR 151.02 to 151.08, in effect as of June 1, 2018:

1. Access roads under s. ATCP 50.65.
2. Roof runoff systems under s. ATCP 50.85.
3. Streambank or shoreline protection under s. ATCP 50.88.
4. Stream crossing under s. ATCP 50.885.
5. Wetland development or restoration under s. ATCP 50.98.

(dr) The cost-share payments for any conservation practice installed on land owned by a local governmental unit may not exceed 50% of the total eligible costs to install and maintain the practice.

(e) A county land conservation committee may provide cost-share funds, at the rate authorized under this subsection, to replace a cost-shared conservation practice that is damaged or destroyed by natural causes beyond the landowner's control.

(2) CROPPING PRACTICES; MAXIMUM AMOUNTS. A county land conservation committee may pay up to the following amounts for the installation or maintenance of the following cropping practices:

(a) For contour farming, $9 per acre per year.

(b) For cover crops:

1. $60 per acre per year for single species where termination is required.

2. $35 per acre per year for single species where termination is not required.

3. $75 per acre per year for multi-species with two or more species.

(c) For stripcropping, $13.50 per acre.

(d) For residue management systems, no-till or strip till systems, $18.50 per acre per year.

(e) For nutrient management, $10 per acre per year for new nutrient management plan development, and $5 per acre for a one-time nutrient management plan update prior to April 1, 2027 in areas impacted by the Silurian bedrock performance standards outlined in s. NR 151.075.

(f) For conservation crop rotation, $10 per acre per year.

(g) For harvestable buffers, annual per-acre financial assistance shall not exceed the average soil rental rate for the county set by the United States department of agriculture during the most recent sign-up for the Conservation Reserve Program.

Note: For current soil rental rates, see USDA-Farm Service Agency Conservation Reserve Program statistics at www.fsa.usda.gov

(3) MAXIMUM GRANT TO RELOCATE ANIMAL FEEDING OPERATION. No cost-share grant to relocate an animal feeding operation may exceed 70% of the estimated cost to install a manure management system or related practices needed to resolve or prevent water quality problems at the abandoned site, or 70% of the eligible relocation costs at the new site, whichever site cost is less. Not more than $5,000 of the cost-share grant may be used to transport livestock from the abandoned site to the new site.

(4) ECONOMIC HARDSHIP. A landowner of a farm operation qualifies for economic hardship treatment if all the following apply:

(a) A certified public accountant or accredited financial institution certifies all the following to the county land conservation committee, based on a farm financial statement prepared according to generally accepted accounting principles:

1. The landowner is unable to make the cost-share contribution normally required of a landowner under sub. (1).

2. The landowner will be able to pay the balance of the cost to install the cost-shared practice if the landowner receives cost-sharing at the economic hardship rate.

(b) The landowner certifies, in a sworn affidavit to the county land conservation committee, that the landowner has provided to the certified public accountant or accredited financial institution under par. (a) a full and true disclosure of the landowner's financial condition, including a copy of the landowner's latest federal tax return. The landowner shall make the affidavit on a form provided by the department.

(5) REVIEW OF ECONOMIC HARDSHIP DETERMINATION. The department may review of an economic hardship determination under sub. (4). The landowner and the person certifying the economic hardship shall make available for department inspection or copying, at the department's request, documents used to support the economic hardship determination. The department may invalidate a determination that fails to comply with standards under sub. (4).

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (2) (b) to (d) Register April 2009 No. 640, eff. 5-1-09; CR 13-016: cr. (1) (bm), (dg), (dr), am. (4) (intro.) Register February 2014 No. 698, eff. 5-1-14; CR 16-083: am. (2) (g) Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (title), (1) (a), (b), (dg) (intro.), r. and recr. (2) Register May 2024 No. 821, eff. 6-1-24; correction in (1) (title) made under s. 13.92 (4) (b) 2., Stats., correction in (2) (b) (intro.) made under s. 35.17, Stats., Register May 2024 No. 821.

Subchapter VI — Soil and Water Professionals

ATCP 50.46 Conservation engineering practitioners. (1) GENERAL. (a) A conservation engineering practitioner certified under this section, or approved under a parallel federal program identified in par. (b), may implement the agricultural or other conservation engineering practices in ch. 92, Stats., or s. 281.65, Stats., and perform any of the following activities consistent with the person's level of certification under this section:

1. Certify the design specifications for a conservation engineering practice under sub. (2).

2. Certify that a conservation engineering practice under sub. (2) has been installed according to an approved design, and according to applicable standards and specifications.

3. Engage in planning review and other engineering functions related to the installation of engineered conservation practices under sub. (2).

(b) The department shall operate its certification program under this section, to the extent possible, in conformance with the NRCS, or any other applicable federal agency system of engineering job approval authority.

(c) For funding purposes under this chapter or ch. NR 120, no person, other than a conservation engineering practitioner certified under this section or a professional engineer registered under ch. 443, Stats., may certify that conservation practices were properly designed or installed in compliance with standards under this chapter or s. 281.65, Stats.

Note: See ss. 92.18 and 443.14 (10), Stats. A state or county employee certified under this section is exempt from the professional engineering registration requirements of ch. 443, Stats., when engaged in state or county activities under ch. 92, Stats., or s. 281.65, Stats., regardless of whether the activities are funded under this chapter.

(d) Notwithstanding par. (c), a well driller or pump installer registered under s. 280.15, Stats., may certify a well construction or decommissioning under this subsection and an architect registered under ch. 443, Stats., may certify a roof under this subsection.

(2) CONSERVATION ENGINEERING PRACTICES. For purposes of this section, a conservation engineering practice includes any of those practices identified in subch. VIII, authorized by the department under s. ATCP 50.40 (3), allowed under s. 281.65, Stats., or approved and published, as part of the NRCS field office technical guide or as a formal technical standard by the DNR.

Note: The DNR publishes its technical standards on its website at, for example: http://dnr.wi.gov/topic/stormwater/standards/index.html.

(2m) STATE SOIL AND WATER CONSERVATION ENGINEER. The department may designate an employee as the state soil and water conservation engineer. The designated person shall be a professional engineer registered under ch. 443, Stats., and demonstrate sufficient training and experience to carry out the functions of the position. The state soil and water conservation engineer shall do all of the following:

(a) Oversee the work of the field engineers who are responsible for certifying conservation engineering practitioners under this section.

(b) Conduct engineering activities requiring job approval authority ratings higher than those authorized under this section including job class ratings of V and above.

(3) CONSERVATION ENGINEERING PRACTITIONER; INITIAL CERTIFICATION AND RECERTIFICATION. (a) A person who wishes to be certified as a conservation engineering practitioner shall apply to the department or a county land conservation committee. The department or the county land conservation committee shall promptly refer the application to the department's designated field engineer. The field engineer shall evaluate the applicant and issue a decision granting or denying the request.

(b) Applicants for certification shall apply on a form provided by the department. The application form shall include all of the following:

1. The name and affiliation of the person applying for certification, and the name and affiliation of each DATCP, NRCS, or other agency personnel authorized to grant certification to the applicant.

2. The practices for which certification may be granted, including specific practice types and applicable references to the NRCS technical guide and other formal technical standards authorized under this section.

3. The controlling factor used to distinguish different classes of certification within each practice, and the specific application of the factor to the 5 levels for which certification can be obtained.

4. A maximum certification rating level in the 3 areas of competency for each practice that the applicant is qualified to perform, as specified in sub. (5).

5. Any other information the department determines to be reasonably necessary for certification purposes including certification for practice standards approved by entities other than NRCS.

Note: A person may obtain a certification form by visiting the department website at: https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx, or by writing to the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Agricultural Resource Management
P.O. Box 8911
Madison, WI 53708-8911

(c) Certifications issued under this section are for a term of three years and automatically renew unless any of the following occur:

1. The practitioner is not employed by an entity with a supervisor who is authorized to sign the certification.

2. The practitioner fails to meet the education requirements.

3. The practitioner has failed to provide or update information required for certification under par. (b).

4. The practitioner has rescinded the signature on the certification or otherwise indicates an intent to surrender the certification.

(4) EVALUATING APPLICANTS FOR CERTIFICATION. (a) To evaluate an applicant under sub. (3), the department's field engineer shall complete a department certification form. The field engineer shall rate the applicant under sub. (5) based on the applicant's demonstrated knowledge, training, experience, and record of appropriately seeking assistance. Evaluations shall be fair and consistent.

(b) To evaluate an applicant, the department's field engineer may conduct interviews, perform inspections, and require answers and documentation from the applicant. The field engineer may ask engineering staff from NRCS to help evaluate an applicant.

(5) CERTIFICATION RATING. (a) For each type of agricultural or other conservation engineering practice identified in the required certification form, the department's field engineer shall identify the most complex of the 5 job classes in the practice for which the applicant is authorized to do each of the following:

1. Conduct planning activities, including site inventory and evaluation functions to define alternative engineering solutions.

2. Certify that design specifications for jobs in that class comply with those identified in subch. VIII, authorized by the department under s. ATCP 50.40 (3), allowed by s. 281.65, Stats., or approved and published, as part of the NRCS field office technical guide or as a formal technical standard by the DNR.

3. Certify that jobs in that class have been installed according to the approved design, and according to any applicable standards and specifications.

(c) In cases where department field engineers may be required to provide a job certification approval level at a level higher than their own, they should consult with a person who has appropriate certification levels in the areas being rated. A person who is certified at a job level under par. (a) may certify their own work at that level for any purpose including funding authorized under this chapter.

(6) CERTIFICATION DECISION. (a) The department's field engineer shall act on a certification application under sub. (3) within 30 days after the field engineer receives that application, provided that the applicant promptly submits relevant information and documentation requested by the field engineer.

Note: When recertifying an applicant who was previously certified by the department or NRCS, the department's field engineer may raise one or more rating levels, lower one or more rating levels, or reaffirm one or more rating levels.

(b) Whenever the department's field engineer certifies a conservation engineering practitioner, the field engineer shall issue a written certification on the department's certification form. The certification becomes effective when signed by all of the following:

1. The field engineer.

2. The practitioner certified.

3. The practitioner's supervisor if any.

(c) Whenever the department's field engineer denies a request under sub. (3) for a specific certification rating, the field engineer

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shall issue the denial in writing and shall specify the reasons for the denial.

(d) The department's field engineer shall retain a copy of each certification under par. (b), each denial under par. (c), and any other documentation received or compiled in connection with an application under sub. (3).

(7) REVIEWING CERTIFICATION RATINGS. (a) A department field engineer shall review each certification rating under sub. (5) at least once every 3 years, and may review a rating at any time. A field engineer shall review a rating whenever a certified conservation engineering practitioner requests that review.

(b) Based on a review under par. (a), a department field engineer shall issue a new certification rating which reaffirms or modifies the prior rating under sub. (5). The field engineer shall provide a copy of each new rating to the person rated. The field engineer may not reduce a rating except for good cause.

(c) A field engineer shall document, in writing, the field engineer's reasons for reducing a certification rating under sub. (5), or for refusing to make a requested rating change. The field engineer shall provide that documentation to the person rated, and to that person's supervisor if any.

(8) APPEALS. (a) An affected person may appeal a field engineer's action under sub. (5), (6) or (7). The affected person shall file that person's appeal in writing, with the field engineer, within 10 business days after the applicant receives notice of the field engineer's action. The appeal shall identify the specific matters in dispute and the specific basis for the appeal.

(b) Within 15 business days after the department's field engineer receives an appeal under par. (a), the field engineer shall hold an informal meeting with the appellant. The meeting may include a representative of the county land conservation committee. The field engineer may hold the informal meeting in person or by telephone.

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

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

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

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

Note: See ss. 92.18 (6) and 93.06 (7), Stats.

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

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

2. State and federal agencies that provide cost-share funds for conservation engineering practices.

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

(10) CERTIFICATION GUIDELINES. The department may publish guidelines for the certification of conservation engineering practitioners under this section. The guidelines may include suggested or required courses, training activities, and types of knowledge and experience that may help applicants qualify for certification at specified rating levels, or be required in order to retain certification at certain rating levels.

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

(b) Any engineered practice designed by a person certified under this section shall include project documentation establishing that the practice was designed according to applicable standards, and that the design was reviewed and approved for compliance with those standards. Any person approving a design shall have job approval authority at the level required by the engineered practice. For practices requiring a job class authority of III or higher, at least one person other than the practice designer shall review and sign the design as being checked before the design can be approved. For practices requiring job class authority of I or II, the person preparing the design may also review and approve the design.

(12) SCOPE OF CERTIFICATION. No certified conservation engineering practitioner may, for any purpose, including funding under this chapter or s. 281.65, Stats., certify any matter under sub. (5) (a) in a job class more complex than that for which the practitioner is authorized under sub. (5) (a). In the event a practitioner exceeds the authority authorized for certifying conservation practices, the department shall review the matter and may take action under sub. (7) or (9).

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: r. and recr. (2) Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (title), r. and recr. (1), (2), cr. (2m), am. (3) (title), renum. (3) to (a) and am., cr. (3) (b), am. (4) (a), (5) (a) (intro.), renum. (5) (a) 1. and 2. to (5) (a) 2. to 3. and am., cr. (5) (a) 1., am. (6) (b), (7) (a), (9) (c) 2., (10), (11) (title), renum. (11) to (11) (a) and am., cr. (11) (b), am. (12) Register February 2014 No. 698, eff. 5-1-14; CR 16-083: am. (3) (title), cr. (3) (c) Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (1) (d), (2), (5) (a) 2., r. (5) (b), cr. (5) (c), am. (7) (c), (8) (a), (c), (9) (c) 1., (11) (b) Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.48 Nutrient management planners. (1) QUALIFICATIONS. To be qualified under ss. 281.65, 281.66, Stats., and this chapter, a nutrient management planner shall be knowledgeable and competent in all of the following areas:

(a) Compliance with the NRCS conservation practice standard 590.

(b) Soil testing.

(c) Calculating nutrient needs on a field-by-field basis.

(d) Crediting manure, residual legume nitrogen, and other nutrient sources on a field-by-field basis.

(e) Using conservation plans.

(f) Relevant laws related to nutrient management.

(g) Preparing nutrient management plans according to s. ATCP 50.04 (3).

(2) PLANNERS PRESUMPTIVELY QUALIFIED. An individual is considered a qualified nutrient planner under sub. (1), without any action by the department, if all of the following apply:

(a) The individual is at least one of the following:

1. Recognized as a certified professional crop consultant by the national alliance of independent crop consultants.

2. Recognized as a certified crop adviser or professional agronomist by the American society of agronomy, Wisconsin certified crop advisers board.

3. Registered as a soil scientist by the soil science society of America.

4. The holder of other credentials that the department deems equivalent to those specified under subds. 1. to 3. A landowner is presumptively qualified to prepare a nutrient management plan for that landowner's farm, but not for others, if the landowner completes a department-approved training course that results in a nutrient management plan in compliance with s. ATCP 50.04 (3) and the course instructor approves the landowner's first annual plan. The landowner shall complete a department-approved training course at least once every 4 years to maintain that landowner's presumptive qualification. The course instructor is not required to hold credentials listed in subds. 1. to 3., but the instructor must be knowledgeable and competent in accordance with sub. (1).

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

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

Note: The department does not affirmatively certify nutrient management planners. A nutrient management planner who meets all of the requirements under sub. (2) may represent privately or publicly as a qualified nutrient planner, without any certificate from the department. A person qualified only to prepare that person's own nutrient management plan under sub. (2) (a) 4. may not misrepresent that the person is qualified to prepare nutrient management plans for others.

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

(b) A qualified nutrient management planner may not approve a nutrient management plan that fails to comply with s. ATCP 50.04 (3).

(4) DISQUALIFICATION. The department may issue a written notice to an individual, declaring that the individual is not a qualified nutrient management planner under this section. The notice shall specify the basis for the department's declaration. The department may disqualify a nutrient management planner if the planner violates or fails to provide reasonable documentation of compliance with sub. (3) or lacks qualifications required under sub. (1). A person who is named in a disqualification notice under this subsection may request a contested case hearing under s. 227.42, Stats., and ch. ATCP 1.

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

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

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

(c) Misrepresent that a person is qualified to perform nutrient management plans for others, if that is not the case.

(6) RECORDS. A qualified nutrient management planner shall keep copies of all nutrient management plans that the qualified nutrient management planner prepares or approves for funding under s. 92.14 or 281.65 for a landowner claiming farmland preservation tax credits under s. 71.613, Stats. The qualified nutrient management planner shall retain the records for at least 4 years, and shall make them available for inspection and copying by the department or its agent upon request. The qualified nutrient management planner under s. ATCP 50.48 (3) shall complete the nutrient management checklist form provided by the department. The qualified nutrient management planner shall have reasonable documentation to substantiate each checklist response and shall provide it to the department or its agent upon request and in a format that allows for determination of compliance with s. ATCP 50.04 (3). Minimum documentation requirements are outlined in NRCS conservation practice standard 590 nutrient management (December 2015) and Wisconsin Conservation Planning Technical Note WI-1 (February, 2016) and include:

(a) Narrative summarizing the farms implementation and operation of the nutrient management plan.

(b) Maps of the farm identifying fields, soils, and spreading restrictions and prohibitions.

(c) Crop, field, and nutrient information, such as crop rotation, tillage, soil nutrient levels and nutrient applications.

Note: An example of reasonable documentation for substantiating checklist responses and determining compliance is a database file from nutrient management planning software.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 05-013: am. (2) (a) 3. Register May 2007 No. 617, eff. 6-1-07; CR 16-083: am. (1) (a), (2) (a) 2. to 4., (6) Register January 2018 No. 745, eff. 2-1-18; correction in (2) (a) 4., (6) made under s. 35.17, Stats., Register January 2018 No. 745; CR 23-024: am. (1) (a), (2) (a) 4., (4), renum. (6) to (6) (intro.) and am., cr. (6) (a) to (c) Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.50 Soil and manure testing laboratories.

(1) CERTIFIED LABORATORY. A nutrient management plan shall be based on soil tests conducted at the University of Wisconsin or another soil testing laboratory certified by the department. The department may certify a laboratory according to this section.

(2) APPLYING FOR CERTIFICATION. A laboratory operator may apply to the department for certification under sub. (1). An operator shall submit a separate application, on a form provided by the department, for each laboratory for which the operator seeks certification. The application shall include all of the following:

(a) The name of the laboratory operator.

(b) The address of the laboratory.

(c) The name and telephone number of the individual who is responsible for on-site administration of the laboratory.

(d) The soil tests, test methods, and nitrogen estimation methods used by the laboratory. The laboratory shall be capable of performing the following tests according to methods prescribed by the University of Wisconsin-Extension in Nutrient Application Guidelines for Field, Vegetable, and Fruit Crops in Wisconsin, UWEX Publication A2809 (2012), and by the University of Wisconsin-Madison soil science department in *Wisconsin Procedures for Soil Testing, Plant Analysis and Feed & Forage Analysis, Soil Fertility Series* (October, 2013) and shall be capable of estimating nitrogen levels based on those tests:

1. Soil pH.
2. Buffer pH.
3. Phosphorus (P).
4. Potassium (K).
5. Organic matter (OM).

Note: Copies of the Nutrient Application Guidelines for Field, Vegetable, and Fruit Crops in Wisconsin. *UWEX Publication A2809* (2012) and the *Wisconsin Procedures for Soil Testing, Plant Analysis and Feed & Forage Analysis, Soil Fertility Series* (October, 2013) are on file at the department and legislative reference bureau. To obtain a copy of the A2809, see s. ATCP 50.04 (3) (f) 4. (note). Copies of the Wisconsin Procedures publication are available at the University of Wisconsin website at: https://uwlab.soils.wisc.edu/about-us/lab-procedures-and-methods/.

(e) Documentation showing that the laboratory is qualified and equipped to perform accurate soil tests and nitrogen estimates under par. (d).

(f) License conditions specified by the department, including compliance with subs. (4) to (6).

(g) Other relevant information required by the department.

Note: The soil testing laboratory certification form and the list of approved soil testing laboratories can be found at the following web address: https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx.

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

(4) NUTRIENT RECOMMENDATIONS. If a certified laboratory recommends nutrient applications to a landowner that exceed the amounts required to achieve applicable crop fertility levels recommended by the University of Wisconsin Extension in *Nutrient Application Guidelines for Field, Vegetable and Fruit Crops in Wisconsin,* UWEX publication A2809 (2012), the laboratory shall make those recommendations in writing and shall disclose all of the following in the same document:

(a) The landowner's name and address.

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

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

IMPORTANT NOTICE

Our recommended nutrient applications exceed the amounts required to achieve applicable crop fertility levels recommended by the University of Wisconsin. The amounts required to achieve the UW's recommended crop fertility levels are shown for comparison. Excessive nutrient applications may increase your costs, and may cause surface water and groundwater pollution. If you apply nutrients at the rates we recommend, you will not comply with state soil and water conservation standards. You may contact your county land conservation committee for more information.

Note: To obtain a copy of A2809, see s. ATCP 50.04 (3) (f) 4. (Note).

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

(a) Records of all soil tests conducted at the laboratory.

(b) Copies of all nutrient application recommendations made by the laboratory.

(6) LABORATORY EVALUATION. (a) The department or its agent may review the performance of a soil testing laboratory certified under this section. The department or its agent may do any of the following as part of its review:

1. Review relevant laboratory records.
2. Evaluate laboratory facilities and methods.
3. Evaluate the proficiency of laboratory analysts.
4. Evaluate the laboratory's proficiency in testing check samples provided by the department or its agent.

(b) A laboratory operator shall cooperate with a reasonable review under par. (a).

(7) DENYING OR WITHDRAWING CERTIFICATION. (a) The department may deny, suspend, revoke, or impose conditions on a certification under this section if the department finds that the laboratory has done any of the following:

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

(b) If the department denies, suspends, revokes, or imposes conditions on a laboratory certification, the department shall give the laboratory operator written notice of the department's reasons for that action.

(c) A laboratory operator may request a contested case hearing under s. 227.42, Stats. and ch. ATCP 1 on the department's action under this subsection.

(8) MANURE TESTING LABORATORIES. Manure nutrient values determined by laboratory analyses do not qualify under s. ATCP 50.04 (3) (dm) 2. unless the laboratory performing those analyses complies with all of the following:

(a) The laboratory participates in the manure analysis proficiency program administered by the Minnesota department of agriculture, or in an equivalent proficiency program administered by the University of Wisconsin soil analysis laboratory, and provides copies of proficiency reports to the department upon request.

Note: A manure testing laboratory may qualify under sub. (8), regardless of whether the laboratory is certified as a soil testing laboratory under sub. (1). A laboratory may contact the department, at the following address, for information on how to enroll in a manure analysis proficiency program under par. (a):

Wis. Department of Agriculture, Trade and Consumer Protection
Agricultural Resource Management Division
Nutrient Management Program
PO Box 8911
Madison, WI 53708-8911

(b) The laboratory is capable of performing all of the following manure analyses according to methods prescribed by the University of Wisconsin-Extension in *Recommended Methods of Manure Analysis*, UWEX publication A3769 (2003):

1. Percent dry matter (DM).
2. Total nitrogen.
3. Total phosphorus expressed as $P_2 0_5$.
4. Total potassium expressed as $K_2 0$.

Note: The University of Wisconsin-Extension publication, *Recommended Methods of Manure Analysis,* UWEX publication A3769 (2003), is on file with the department and legislative reference bureau. Copies may be obtained by visiting the UWEX website at: http://learningstore.uwex.edu.

(c) The laboratory is capable of estimating total and available nutrient levels based on the manure tests under par. (b) and the availability percentages shown in *Nutrient Application Guidelines for Field, Vegetable and Fruit Crops in Wisconsin*, UWEX publication A2809 (2012).

(9) CONFLICT OF INTEREST. For the purpose of complying with s. ATCP 50.04 (3) a privately owned laboratory certified under this section shall not perform soil test analysis on cropland managed or owned by a person managing or having a substantial financial interest in the laboratory.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 05-013: am. (2) (intro.), (b), (c), (d) 2., and (f), cr. (8) Register May 2007 No. 617, eff. 6-1-07; CR 08-075: am. (2) (d) (intro.) and (8) (c) Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (2) (intro.), (d), (4) (intro.) Register February 2014 No. 698, eff. 5-1-14; CR 16-083: am. (2) (d) (intro.), (8) (c), cr. (9) Register January 2018 No. 745, eff. 2-1-18; CR 23-024: cr. (7) (c) Register May 2024 No. 821, eff. 6-1-24.

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

(a) Determine training needs and priorities.

(b) Identify training opportunities and resources.

(c) Make training recommendations.

(d) Approve training programs funded under this chapter.

(e) Coordinate the delivery of training.

(f) Provide training and assess fees to cover training costs.

(g) Issue training guidelines and requirements for certified conservation engineering practitioners under s. ATCP 50.46 (10).

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

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

(a) DNR.

(b) NRCS.

(c) The University of Wisconsin-Extension.

(d) The statewide association representing land conservation committees and their staffs.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 13-016: am. (1) (g), (2) (d), r. (2) (e) Register February 2014 No. 698, eff. 5-1-14; CR 23-024: am. (2) (c) Register May 2024 No. 821, eff. 6-1-24; correction in (2) (c) made under s. 13.92 (4) (b) 6., Stats., Register May 2024 No. 821.

Subchapter VII — Local Regulation

ATCP 50.54 Local regulations; general. (1) REVIEW OF LOCAL REGULATIONS. The department may review and comment on local regulations.

Note: Local conservation requirements should be consistent with this chapter (see ss. 92.05 (1), (3) (c) and (L), 92.07 (2), 92.11, 92.15 (2) to (4), 92.16, 92.17, 93.90, and 281.16 (3), Stats.). A local regulation may not require a livestock operator to obtain a license or permit for a new or expanding livestock operation, except as specifically authorized under s. 93.90, Stats., and ch. ATCP 51. When exercising their approval authority under the livestock facility siting law, political subdivisions may be limited in their application of local manure storage ordinances adopted under s. 92.16, Stats., and s. ATCP 50.56. (See s. ATCP 51.10 (1)).

(2) COST-SHARING REQUIRED. (a) No county, local government, or tribe receiving funds under this chapter may do any of the following, under this chapter or a local regulation, unless that county, local government, or tribe first offers cost-sharing that is at least equal to the cost-sharing required under s. ATCP 50.08:

1. Require a conservation practice that discontinues or modifies cropping practices on existing cropland. In this paragraph, "existing cropland" has the meaning given in s. NR 151.09 (4) (b).

2. Require a conservation practice that discontinues or modifies an existing livestock facility or operation. In this paragraph, "existing livestock facility or operation" has the meaning given in s. NR 151.095 (5) (b).

(b) Paragraph (a) does not apply to a nutrient management plan under s. ATCP 50.04 (3) when required by any of the following:

1. A permit for a manure storage system voluntarily constructed by a landowner.

2. A permit required for a new or expanding livestock facility operation regulated under ch. ATCP 51.

(c) Paragraph (a) does not limit any of the following:

1. Emergency or interim action taken in response to a pollution discharge, to prevent or mitigate imminent harm to waters of the state.

2. County action under s. ATCP 50.16 (6) to suspend a landowner's eligibility for farmland preservation tax credits, if the landowner fails to comply with conservation standards under s. ATCP 50.16 (1).

3. Enforcement of an existing cost-share contract.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 13-016: renum. (2) (b) to (2) (b) (intro.) and am., cr. (2) (b) 1., 2. Register February 2014 No. 698, eff. 5-1-14; CR 16-083: am. (2) (b) (intro.) Register January 2018 No. 745, eff. 2-1-18.

ATCP 50.56 Manure storage systems; ordinance. (1) GENERAL. A county, city, village, or town may adopt an ordinance under s. 92.16, Stats., that establishes standards for manure storage systems.

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

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

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

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

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

(e) Closure provisions under sub. (4), if any.

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

(g) Provisions, if any, for monitoring the adequacy of manure storage systems, including the annual submission of a nutrient management plan that complies with s. ATCP 50.04 (3).

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

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

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

(j) The effective date of the ordinance.

(3) CONSTRUCTION PROVISIONS. (a) An ordinance adopted under s. 92.16, Stats., shall establish requirements for constructing a new or modified manure storage system, including storage and transfer components to handle manure.

Note: See s. ATCP 50.01 (20).

(b) An ordinance adopted under s. 92.16, Stats., shall include provisions that do all of the following:

1. Prohibit construction of any part of a manure storage system without a permit from the county, city, village, or town that adopts the ordinance.

2. Require submission of a construction plan, a drawing reflecting design changes made during construction, and documentation certifying that the system was installed in accordance with technical standards.

Note: Ordinances should provide sufficient time for the local governmental unit to review engineering plans and specifications submitted by applicants. The timelines in s. NR 243.15 (1) (b) and s. ATCP 51.32 are designed to enable permit issuers to thoroughly review today's complex systems for completeness and conformance with applicable standards. Local governmental units should make every effort to coordinate their permit reviews with other government programs conducting similar reviews.

3. Require a nutrient management plan that complies with s. ATCP 50.04 (3).

4. Require consistency with state performance standards and prohibitions, and require construction in accordance with conservation practice standards including all of the following:

a. NRCS conservation practice standard 313 waste storage facility (October, 2017).

b. NRCS conservation practice standard 634 waste transfer (November, 2022).

c. Other applicable NRCS conservation practice standards.

d. Applicable DNR requirements under s. 281.65 (4) (g) 5., Stats.

(4) CLOSURE PROVISIONS. An ordinance adopted under s. 92.16, Stats., may prohibit any person from closing a manure storage system unless that person does all of the following:

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

(a) Submits a closure plan for approval by the county, city, village, or town. The closure plan shall comply with the waste facility closure provisions contained in the NRCS conservation practice standard 360 waste facility closure (June, 2021).

Note: The NRCS conservation practice standard 360 is on file with the department and the legislative reference bureau.

(b) Obtains a permit for the closure.

(c) Complies with the approved closure plan under par. (a).

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

(6) DEPARTMENT OVERSIGHT. The department may require a county, city, village, or town to submit a proposed or adopted ordinance to the department for review to determine consistency with this chapter in connection with the administration of an ordinance under s. 92.16, Stats. The department may ask the county, city, village, or town for information that it needs to perform the review.

Note: See s. 92.05 (3) (L), Stats.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (c) 1., 2. and (4) (a) Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (2) (e), (f), r. and recr. (3), am. (4) (title), (intro.), (a) to (c), (6) (title), renum. (6) to (6) (intro.) and (b) and am., cr. (6) (a) Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (3) (b) 4. a., b. Register May 2015 No. 713, eff. 6-1-15; correction in (3) (b) 4. a. made under s. 35.17, Stats., Register May 2015 No. 713; CR 16-083: am. (2) (g) Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (3) (b) 4. (intro.), a. to c., (4) (a), renum. (6) (intro.) to (6) and am., r. (6) (a), (b) Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.58 Shoreland management; ordinance.

(1) GENERAL. A county, city, village, or town may adopt or amend a shoreland management ordinance under s. 92.17, Stats., with department approval.

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

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

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

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

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

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

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

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

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

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

(i) The effective date of the ordinance.

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

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

1. County comments under sub. (3), if any.

2. A description of any public hearings held on the proposal, and a brief summary of hearing comments if any.

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

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

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

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

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

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

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02.

ATCP 50.60 Livestock operations; local regulation.

(1) LOCAL REGULATIONS THAT EXCEED STATE STANDARDS; APPROVAL REQUIRED. (a) Except as provided in par. (b), no local regulation may require nutrient management or other conservation practices for livestock operations that exceed the practices required under s. ATCP 50.04 unless the department or DNR approves those requirements under this section or s. NR 151.096.

Note: See s. 92.15, Stats. A person adversely affected by a local livestock regulation may oppose its adoption at the local level. The person may also challenge a local regulation in court if the person believes that the local governmental unit has violated par. (a) or s. 92.15, Stats. A local governmental unit is responsible for analyzing the legal adequacy of its regulations, and may exercise its own legal judgment in deciding whether to seek state approval under this section.

A local permit requirement does not, *by itself*, violate par. (a). But permit *conditions* codified in a local regulation must comply with par. (a). In the case of local permit conditions for new and expanding livestock operations, local governmental units must codify more stringent regulation and meet other requirements of s. ATCP 51.10 (3). If a local governmental unit routinely requires permit holders to comply with *uncodified* conservation requirements that exceed state standards, those uncodified requirements may be subject to court challenge under s. 92.15, Stats., and par. (a) as *de facto* regulatory enactments. A local governmental unit may forestall a legal challenge by codifying standard permit conditions and obtaining any necessary state approval under this section. The department will review codified regulations under sub. (2), but will not review individual permits or uncodified permit conditions.

(b) Paragraph (a) does not apply to any of the following:

1. Local regulation of cropping practices that are not directly related to a livestock operation.

2. Local regulations enacted prior to October 1, 2002. This does not limit the application of s. 92.15, Stats., to those local regulations.

(2) DEPARTMENT APPROVAL. (a) To obtain department approval under sub. (1) (a) for an existing or proposed regulation, the head of the local governmental unit or the chair of the local governmental unit's governing board shall do all the following:

1. Submit a copy of the regulation to the department and DNR.

2. Identify the provisions of the regulation for which the local governmental unit seeks approval.

3. Submit documentation showing why the identified provisions are needed to achieve compliance with water quality standards, and why compliance cannot be achieved by less stringent provisions.

(b) Within 90 days after the department receives a complete application under par. (a), the department shall grant or deny the requested approval. Before the department grants or denies the application, the department shall solicit a recommendation from DNR. The department shall issue its decision in writing, and shall state the reasons for its decision.

(c) The department may approve a provision identified under par. (a) 2. if the department finds that the provision is necessary to achieve compliance with water quality standards under s. 281.15, Stats., and that compliance cannot reasonably be achieved by less restrictive means.

(d) The department may not review or approve individual permits or permit conditions under this subsection, except that the department may review standard permit conditions that are codified in a local regulation. The department may approve those codified conditions if they meet the standard for approval under par. (c).

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02.

Subchapter VIII — Standards for Practices Receiving Financial Assistance

Note: For information on how to obtain NRCS conservation practice standards and any other standards required under this subchapter, including any secondary standards incorporated by reference in those standards, a person may visit the department website at: https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx, or contact the department in writing at the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Agricultural Resource Management
P.O. Box 8911
Madison, WI 53708-8911

ATCP 50.61 General standards for practices receiving financial assistance; pre-approval of cost-shared practices.

(1) PRACTICES MUST COMPLY. Except as authorized under sub. (3), conservation practice standards and any other standards under this chapter, including any secondary standards incorporated by reference in those standards shall comply with applicable standards under this subchapter.

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

(3) VOLUNTARY USE OF UPDATED TECHNICAL STANDARDS. The department may authorize a county to provide financial assistance for a conservation practice to be implemented under the updated version of a technical or conservation practice standard listed in this subchapter. The county may provide financial assistance for the conservation practice using the updated standard if all of the following apply:

(a) The updated standard provides conservation benefits at least as beneficial as the version listed in this subchapter.

(b) The updated standard has been adopted by NRCS, DNR, the department, or the applicable entity listed in this subchapter.

(c) The landowner voluntarily agrees, in writing, to the use of the updated standard to implement the conservation practice.

(4) PRE-APPROVAL OF COST-SHARED PRACTICES. The department may, at any time, require advance approval of any practice cost-shared under this chapter. The department shall provide written notice to affected parties of the cost-shared practices requiring pre-approval by the department and an opportunity for the affected parties to comment on the listed practices. The department shall do all of the following:

(a) Identify the practice for which pre-approval is required.

(b) Establish the conditions under which pre-approval is required and the process for securing the pre-approval.

(c) Provide at least 30 calendar days written notice to each county and other affected grant recipients before requiring pre-approval of the listed cost-shared practice.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 13-016: am. (title), (1), cr. (3), (4) Register February 2014 No. 698, eff. 5-1-14; CR 23-024: am. (title), (1), (3) (intro.), (a), (b) Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.618 Technical standards development process.

(1) The department, in consultation with the department of natural resources, shall develop and revise technical standards to implement the performance standards and prohibitions under s. 281.16 (3) (a), Stats., if needed.

(2) The department may decide that the following is necessary to implement a performance standard:

(a) Develop a new technical standard for which the department will be the custodian.

(b) Revise an existing technical standard for which the department is the custodian.

(3) The department shall use the process used by the standards oversight council, or other inter-disciplinary team, when it acts to develop or revise technical standards for which it is the custodian. The process shall include the following:

(a) The department shall convene a work group that includes agencies and persons with technical expertise and direct policy interest.

(b) The work group shall publish a class 1 public notice and consider public comments received on the technical standard prior to providing recommendations to the department.

(c) The work group shall provide a recommended technical standard to the department.

(4) Review and approval of technical standards. (a) Upon receipt of a recommended technical standard or technical standard revision, the department shall determine if the technical standard will effectively achieve or contribute to achievement of the performance standards under s. 281.16 (3) (a), Stats.

(b) If the department determines that a recommended technical standard will not adequately or effectively implement a performance standard under s. 281.16 (3) (a), Stats., the recommended technical standard may not be used to implement a performance standard in whole or in part.

History: CR 23-024: cr. Register May 2024 No. 821, eff. 6-1-24; correction in numbering in section under s. 13.92 (4) (b) 1., Stats., Register May 2024 No. 821.

ATCP 50.62 Manure storage systems.

(1) DEFINITIONS. In this section:

(a) "Animal feeding operation" means a feedlot or facility, other than a pasture, where animals are fed, confined, maintained, or stabled for 45 days or more in any 12-month period. Two or more animal feeding operations under common ownership or management constitute a single animal feeding operation if any of the following apply:

1. The operations are adjacent.

2. The operations use common plans, acreage, or systems to landspread manure or other wastes.

3. Manure, barnyard runoff, or other wastes are commingled in a common storage facility prior to landspreading.

(b) "Manure management system" means a system of one or more practices, facilities, techniques, or measures used to prevent

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or reduce pollutants associated with manure. A "manure management system" may include one or more of the following:

1. A manure storage system.

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

3. Nutrient management as defined in s. ATCP 50.78 (1).

4. Manure storage system closure as defined in s. ATCP 50.63 (1) (b).

5. Well abandonment as described in ch. NR 812.

6. A waste transfer system as defined in s. ATCP 50.93 (1).

(c) "Manure storage facility" means one or more manure storage structures. "Manure storage facility" includes stationary equipment and piping used to load or unload a manure storage structure if the equipment is specifically designed for that purpose and is an integral part of the facility. "Manure storage facility" does not include equipment used to apply manure to land.

(d) "Manure storage structure" means a manure storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. "Manure storage structure" does not include equipment used to apply manure to land.

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

1. A milking center waste control system, except for the system component used to transfer the waste to manure storage.

2. Nutrient management as defined in s. ATCP 50.78 (1).

3. A barnyard runoff control system as defined in s. ATCP 50.64 (1), except for the system component used to transfer the waste to manure storage.

4. Equipment used to apply manure to land.

5. A feed storage system, except for the system component used to transfer leachate and contaminated runoff to manure storage.

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

(a) Costs to design or construct the system.

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

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

(d) Costs to repair, reconstruct, or modify the system, or to abandon a related well, if all of the following apply:

1. The action is needed to meet water quality objectives.

2. The remaining portions of the system are fully operational.

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

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

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

(b) Costs to construct, modify, or support a building. This paragraph does not apply to a modification that is essential for the installation of a manure storage system, or to the construction of a roof pursuant to s. ATCP 50.84.

(c) Costs for equipment used to apply manure to land, including manure spreaders, portable pumps, and other nonstationary equipment.

(d) Any manure storage system costs related to an animal feeding operation if all of the manure from that operation could be applied to land according to the NRCS conservation practice standard 590 nutrient management (December, 2015) without causing or aggravating nonattainment of water quality standards.

(e) Costs of removing or spreading manure from the system.

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

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

(h) That portion of the system capacity needed to accommodate a significant increase in the base livestock population size. If the landowner chooses a system with additional capacity, the cost-share grant will be prorated based on the eligible capacity. The following criteria shall be used in making the determinations under this paragraph, as applicable:

1. The criteria used in s. NR 151.095 (5) (d) 2. d. to determine the size of the base livestock population.

2. The criteria used in s. NR 151.095 (5) (d) 2. d. to determine significant increases to the base livestock population.

3. The calculation used in s. NR 243.11 (2) to measure animal units.

(i) A system capacity needed for a livestock population size for which a WPDES permit application is required under s. NR 243.12 (1) (a) or (b). The size of the livestock population shall be measured in animal units according to s. NR 243.11 (2).

(4) MANURE STORAGE SYSTEMS; GRANT DISQUALIFICATION. A county land conservation committee may not award a cost-share grant for a manure storage system if any of the following apply:

(a) The landowner intentionally aggravated a pollution discharge from the animal feeding operation.

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

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

(d) The landowner holds, or is required to apply for, a Wisconsin pollution discharge elimination system permit for the animal feeding operation under s. 283.31, Stats.

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

1. The department.

2. The county land conservation committee.

3. DNR.

4. NRCS.

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

(a) The system capacity is necessary based on the farm's inability to comply with the farm's nutrient management plan to store the manure produced by the animal feeding operation over a normal period of 30 to 365 days.

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

(c) If the manure storage facility is designed to be emptied annually or semi-annually, manure from the system must be applied

to non-frozen soils in compliance with a nutrient management plan under s. ATCP 50.04 (3).

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

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

1. NRCS conservation practice standard 313 waste storage facility (October, 2017).

2. NRCS conservation practice standard 634 waste transfer (November, 2022).

3. NRCS conservation practice standard 351 well decommissioning (August, 2021).

4. NRCS conservation practice standard 382 fence (January, 2014).

5. NRCS conservation practice standard 561 heavy use area protection (November 2022).

6. NRCS conservation practice standard 520 pond sealing or lining — compacted soil treatment (October, 2017).

7. NRCS conservation practice standard 521 pond sealing or lining — geomembrane or geosynthetic clay liner (October, 2017).

8. NRCS conservation practice standard 522 pond sealing or lining — concrete (June, 2021).

9. Other standards specified by the department.

(em) The landowner agrees, in writing, to maintain the original storage capacity, measured in days per year, of the cost-shared practice for the 10 year maintenance period of the cost-share contract. If more animals are added during the 10 year maintenance period, all of the following provisions apply:

1. The landowner is responsible, at the landowner's own cost, for construction of any additional storage necessary to maintain the same number of days of storage capacity if the landowner's nutrient management plan cannot be modified to allow for land spreading of the additional manure from the expanded livestock operation.

2. The landowner may be required to add manure storage capacity without an offer of cost-sharing, notwithstanding s. ATCP 50.08.

(f) The landowner establishes a nutrient management plan, and agrees to comply with that plan and maintain the manure storage system for 10 years unless the landowner discontinues the animal feeding operation.

1. The landowner must provide to the county a completed nutrient management checklist to receive cost-share payment for this practice.

2. The landowner must provide an updated checklist for each year of the maintenance period.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 05-013: am. (3) (d) Register May 2007 No. 617, eff. 6-1-07; CR 08-075: am. (5) (e) 1. to 3. and 5. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: cr. (1) (b) 6., am. (1) (e) 1., 3., cr. (1) (e) 5., am. (5) (e) 1. to 5., renum. (5) (e) 6. to (5) (e) 9., cr. (5) (e) 6. to 8., (em), am. (5) (f) Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (5) (e) 1., 2., 4., 5. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (5) (e) 3., 5. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am. (3) (d), (5) (a), (c) Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (3) (d), (5) (e) 1. to 8., (em) 1., renum. (5) (f) to (5) (f) (intro.), cr. (5) (f) 1., 2. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.63 Manure storage system closure. (1) DEFINITIONS. In this section:

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

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

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

(a) Groundwater enters the manure storage system.

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

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

(d) The county land conservation committee finds that continued use of the manure storage system is likely to result in resource degradation.

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

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

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

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

(d) Costs to remove a manure transfer system, if any.

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

(5) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not reimburse any costs related to the closure of a manure storage system unless the closure plan complies with NRCS conservation practice standard 360 waste facility closure (June, 2021).

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (5) Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (5) Register February 2014 No. 698, eff. 5-1-14; CR 23-024: am. (5) Register May 2024 No. 821, eff. 6-1-24.

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

(a) Access road under s. ATCP 50.65.

(b) Trails and walkways under s. ATCP 50.66.

(c) Critical area stabilization under s. ATCP 50.69.

(d) Diversions under s. ATCP 50.70.

(e) Heavy use area protection described in NRCS conservation practice standard 561 heavy use area protection (November, 2022).

(f) Prescribed grazing under s. ATCP 50.80.

(g) Waterway systems under s. ATCP 50.96.

(h) Livestock fencing under s. ATCP 50.75.

(i) Livestock watering facilities under s. ATCP 50.76.

(j) Manure storage systems under s. ATCP 50.62 that are needed to collect and contain barnyard runoff.

(k) Nutrient management under s. ATCP 50.78.

(L) Relocating or abandoning animal feeding operations under s. ATCP 50.81.

(m) Roofs under s. ATCP 50.84.

(n) Roof runoff systems under s. ATCP 50.85.

(o) Sediment basins under s. ATCP 50.86.

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(p) Streambank and shoreline protection under s. ATCP 50.88.

(q) Subsurface drains under s. ATCP 50.90.

(r) Underground outlets under s. ATCP 50.92.

(s) Waste transfer systems under s. ATCP 50.93.

(t) Vegetated treatment area under s. ATCP 50.94.

(u) Water and sediment control basins under s. ATCP 50.95.

(v) Well decommissioning under s. ATCP 50.97.

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

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

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

(c) Costs for modification of a building that is essential for installation of the barnyard runoff control system, or for construction of a roof pursuant to s. ATCP 50.84.

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

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

(b) Costs to construct a building.

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

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

(e) Costs ineligible under s. ATCP 50.62 (3) (g) or (h).

(4) BARNYARD RUNOFF CONTROL SYSTEMS; GRANT DISQUALIFICATION. A county land conservation committee may not award a cost-share grant for a barnyard runoff control system if any of the following apply:

(a) The landowner intentionally aggravated a pollution discharge from the animal feeding operation.

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

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

(d) The landowner holds, or is required to apply for, a Wisconsin pollution discharge elimination system permit for the animal feeding operation under s. 283.31, Stats.

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

1. The department.

2. The county land conservation committee.

3. DNR.

4. NRCS.

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

(a) The system complies with applicable design, construction, and maintenance standards under this subchapter and NRCS conservation practice standard 561 heavy use area protection (November, 2022).

(b) The landowner agrees to a 10 year maintenance period for the barnyard runoff control system, and any nutrient management plan required under par. (c), unless the landowner discontinues the animal feeding operation.

(c) The landowner agrees to maintain a nutrient management plan for 10 years if the landowner receives more than $25,000 in DATCP cost-share payments for the runoff control system.

(d) The system complies with one or more of the practices listed in sub. (1) as appropriate. Standards for the listed practices are contained in other sections of this subchapter.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (1) (t) Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (1) (a), (b), (e), (5) (a), (b), cr. (5) (c) Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (1) (e), (5) (a) Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (1) (e), (5) (a) Register August 2016 No. 728, eff. 9-1-16; CR 23-024: am. (5) (a), cr. (5) (d) Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.65 Access road. (1) DEFINITION. In this section, "access road" means a road or pathway that confines or directs the movement of livestock, farm equipment, or vehicular traffic, and that is designed and installed to control surface water runoff, to protect an installed practice, or to prevent erosion.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of installing conservation practices necessary to prevent water quality impairment that may result from the construction of an access road if the access road is needed to comply with applicable state or local regulations.

Note: An eligible practice could be a culvert.

(2m) INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not be used to cover the costs for road surfacing and other road construction activities beyond the area necessary to address the soil and water resource problem for which the practice was installed.

(3) DESIGN, CONSTRUCTION, AND MAINTENANCE STANDARDS. A cost-share grant under s. ATCP 50.40 may not reimburse the cost of establishing water quality practices associated with an access road unless all of the following conditions are met:

(a) The access road complies with all of the following that apply:

1. NRCS conservation practice standard 560 access road (August, 2021).

2. NRCS conservation practice standard 580 streambank and shoreline protection (September, 2021).

3. Section ATCP 50.885 when an access road crosses a stream.

(b) The landowner agrees to maintain the access road practice for 10 years unless farming operations on the affected land are discontinued or the practice is no longer required to prevent the soil and water resource problem for which the practice was installed.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (a) 1. to 3. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (title), (1), (2), cr. (2m), am. (3) (intro.), (a) 1., 2., r. (3) (a) 3., am. (3) (b) Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (3) (a) 1., 2. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (3) (a) 1. Register August 2016 No. 728, eff. 9-1-16; CR 23-024: am. (3) (a) 1., 2., cr. (3) (a) 3. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.66 Trails and walkways. (1) DEFINITION. In this section, "trail or walkway" means a travel lane to facilitate movement of livestock or people.

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

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

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

1. NRCS conservation practice standard 575 trails and walkways (August, 2021).

2. NRCS conservation practice standard 580 streambank and shoreline protection (September, 2021).

3. NRCS conservation practice standard 382 fence (January, 2014).

4. Section ATCP 50.885 when a trail or walkway crosses a stream.

(b) The landowner agrees to maintain the trail or walkway for 10 years unless farming operations on the affected land are discontinued or the practice is no longer required to prevent the soil and water resource problem for which the practice was installed.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (a) 1. to 3. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (title), (1), (2), (3) (intro.), (a) (intro.), 1. to 3., cr. (3) (a) 4., am. (3) (b) Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (3) (a) 1. to 3. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (3) (a) 1., r. (3) (a) 4. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am. (3) (a) 1. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (3) (a) 1. to 3., cr. (3) (a) 4. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.663 Conservation cover. (1) DEFINITION. In this section, "conservation cover" refers to the establishment and maintenance of permanent vegetative cover in an agricultural setting to reduce erosion and sedimentation, improve water quality, and improve soil health.

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

(a) The cost of fencing to protect the planted vegetation.

(b) The cost to establish and manage conservation cover, or to provide temporary cover until the planting is established. This may include costs for mulch, seed, and other necessary materials.

(c) The cost to shape, smooth, or prepare the site before establishing vegetative cover.

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

(a) Critical area plantings.

(b) Whole-field conversion.

(c) Pasture plantings.

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

(a) The conservation cover practices comply with all of the following that apply:

1. NRCS conservation practice standard 327 conservation cover (January, 2013).

2. NRCS conservation practice standard 472 access control (January, 2018).

3. NRCS conservation practice standard 382 fence (January, 2014).

4. NRCS conservation practice standard 315 herbaceous weed treatment (June, 2016).

(b) Following establishment of vegetative cover, management of cover complies with all of the following that apply:

1. NRCS conservation practice standard 338 prescribed burning (March, 2016).

2. NRCS conservation practice standard 314 brush management (April, 2017).

3. NRCS conservation practice standard 528 prescribed grazing standard (April, 2017).

4. Guidelines specified in "Pastures for Profit: A Guide to Rotational Grazing," published by the University of Wisconsin-Extension (2014).

(c) The landowner agrees to maintain the vegetative cover for 10 years.

History: CR 23-024: cr. Register May 2024 No. 821, eff. 6-1-24; correction in (4) (a) 4., (b) 1. to 4. made under s. 35.17, Stats., Register May 2024 No. 821.

ATCP 50.668 Conservation crop rotation. (1) DEFINITION. In this section, "conservation crop rotation" means a planned sequence of crops grown on the same ground over a period of time known as the rotation cycle to support one or more of the following purposes:

(a) Reduce sheet, rill, and wind erosion.

(b) Provide increases to soil health indicators and soil organic matter content.

(c) Protect water quality from excess nutrients.

(d) Improve efficiency of irrigation water use.

(e) Reduce plant pest pressures.

(f) Provide or increase forage supply during periods of low forage production or to extend the grazing season.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse for years where a crop rotation was diversified.

(a) Diversification may include any of the following:

1. Cover crops.

2. Small grains.

3. Perennial crops.

4. Livestock integration.

5. Other innovative practices approved by the department.

(3) INELIGIBLE COSTS. A cost-share grant may not reimburse costs for land in permanent cover or years of a rotation following the establishment of a perennial crop.

(4) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not reimburse any costs to establish a conservation crop rotation unless all of the following apply:

(a) The conservation crop rotation meets NRCS conservation practice standard 328 conservation crop rotation (September, 2015).

(b) The conservation crop rotation complies with all of the following that apply:

1. NRCS conservation practice standard 340 cover crop (August, 2015).

2. NRCS conservation practice standard 590 nutrient management (December, 2015).

3. NRCS conservation practice standard 595 pest management conservation system (January, 2022).

4. NRCS conservation practice standard 528 prescribed grazing (April, 2017).

5. NRCS conservation practice standard 329 residue and tillage management, no till (January, 2018).

6. NRCS conservation practice standard 585 stripcropping (June, 2016).

(c) The landowner agrees to maintain conservation crop rotation for a minimum of 3 years or the duration of cost share, whichever is longer.

History: CR 23-024: cr. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.67 Contour farming. (1) DEFINITION. In this section, "contour farming" means plowing, preparing, planting, and cultivating sloping land on the contour and along established grades of terraces or diversions.

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

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

(a) NRCS conservation practice standard 330 contour farming (March, 2016).

(b) NRCS conservation practice standard 500 obstruction removal (June, 2021).

(c) NRCS conservation practice standard 420 wildlife habitat planting (June, 2020), if habitat management is used to mitigate the loss of habitat resulting from the installation of contour farming.

(d) NRCS conservation practice standard 332 contour buffer strips (July, 2016).

(e) The landowner agrees to maintain the contour farming system for each cropping season for which cost-sharing is provided.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 13-016: am. (3) (a) to (c) Register February 2014 No. 698, eff. 5-1-14; CR 16-083: am. (3) (a), (b) Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (3) (a) to (c), cr. (3) (d), (e) Register May 2024 No. 821, eff. 6-1-24; correction in (3) (a) to (c) made under s. 35.17, Stats., Register May 2024 No. 821.

ATCP 50.68 Cover crop. (1) DEFINITION. In this section, "cover crop" means close-growing grasses, legumes, or small grain grown for any of the following purposes:

(a) To control soil erosion.

(b) To improve soil health.

(c) To improve water quality.

(d) To manage excess nutrients in the soil.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse costs to establish cover crops on an agricultural field.

(4) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not reimburse any costs to establish a cover crop unless all of the following apply:

(a) The cover meets NRCS conservation practice standard 340 cover crop (August, 2015).

(b) The landowner agrees to maintain the cover and green manure crop in each cropping season for which cost-sharing is provided.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (title) and (4) (a) Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (4) (a) Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (4) (a) Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (4) (a) Register August 2016 No. 728, eff. 9-1-16; CR 23-024: am. (1) (intro.), (a) to (c), cr. (1) (d), am. (2), (4) (intro.), (a) Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.69 Critical area stabilization. (1) DEFINITION. In this section, "critical area stabilization" means planting suitable vegetation on erodible areas such as steep slopes and gullies, so as to reduce soil erosion or pollution from agricultural nonpoint sources. "Critical area stabilization" may also include treating areas that drain into bedrock crevices, openings, or sinkholes.

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

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

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

(c) Preparatory shaping and smoothing operations.

(3) INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not reimburse for the costs of planting trees intended for commercial harvest.

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

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

1. NRCS conservation practice standard 342 critical area planting (January, 2018).

2. NRCS conservation practice standard 382 fence (January, 2014).

3. NRCS conservation practice standard 386 field border (January, 2017).

4. NRCS conservation practice standard 472 access control (January, 2018).

5. NRCS conservation practice standard 484 mulching (June, 2016).

6. NRCS conservation practice standard 612 tree/shrub establishment (January, 2018).

7. NRCS conservation practice standard 527 sinkhole treatment (September, 2021).

(b) The landowner agrees to maintain the critical area stabilization practice for 10 years unless farming operations on the affected land are discontinued or the practice is no longer required to prevent the soil and water resource problem for which the practice was installed.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (4) (a) 1., 2. and 4. to 6. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (1), (4) (a) 1. to 7., (b) Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (4) (a) 2. Register May 2015 No. 713, eff. 6-1-15; CR 16-083: am. (4) (a) 1., 3., 4., 5., 7. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (4) (a) 1 to 7. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.70 Diversions. (1) DEFINITION. In this section, "diversion" means a structure installed to divert excess surface runoff water to an area where it can be used, transported, or discharged without causing excessive soil erosion. A "diversion" can also be used to divert surface runoff water around farmsteads or agricultural waste systems to prevent water from becoming contaminated runoff, or both. "Diversion" includes a channel with a supporting earthen ridge on the lower side, installed across the slope with a self-discharging and non-erosive gradient.

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

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

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

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

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

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

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

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

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

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

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

1. NRCS conservation practice standard 342 critical area planting (January, 2018).

2. NRCS conservation practice standard 362 diversion (August, 2016).

3. NRCS conservation practice standard 382 fence (January, 2014).

4. NRCS conservation practice standard 412 grassed waterway (August, 2021).

5. NRCS conservation practice standard 468 lined waterway or outlet (June, 2021).

6. NRCS conservation practice standard 500 obstruction removal (June, 2021).

7. NRCS conservation practice standard 606 subsurface drain (June, 2021).

8. NRCS conservation practice standard 620 underground outlet (June, 2021).

9. NRCS conservation practice standard 645 upland wildlife habitat management (January, 2013).

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

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (4) (b) 1. to 5., 7. and 9. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (4) (b) 1. to 9. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (4) (b) 3., 7., 8. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (4) (b) 4. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am. (4) (b) 1., 2., 4., 6. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (1), (4) (b) 1. to 9. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.705 Feed storage runoff control systems.

(1) DEFINITIONS. In this section:

(a) "Feed storage area" means an area used to store livestock feed including corn silage, haylage, and industrial by-products including distillers grain, brewers grain, candy, pizza crust, bakery waste, cotton seed, soybean meal, animal fats, blood meal, fish meal, cannery waste, beet pulp, citrus pulp, soy hulls, corn middlings, whey, potatoes, and grocery store vegetables. The feed storage area includes the area up to the outside edge of the surface on which the feed is stored and any apron area.

(b) "Feed storage runoff control system" means a system of facilities or practices to contain, divert, retard, treat, or otherwise control the discharge of leachate and contaminated runoff from livestock feed storage areas.

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

(a) Costs for diversion of clean water from the storage area.

(b) Costs for conduits, permanent pumps, and related equipment required to collect, transfer, and store discharges of leachate and contaminated runoff including subsurface and surface discharges.

(c) Costs for preparation of a site for a runoff treatment area and establishment of permanent vegetative cover.

(3) INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not reimburse any of the following costs related to a feed storage runoff control system:

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

(b) Buildings or modifications to buildings.

(c) Portable equipment to pump or spread feed storage runoff onto land or to incorporate those wastes into land.

(d) A non-permanent storage area allowed under NRCS conservation practice standard 561 heavy use area protection (November, 2022).

(e) Areas used to store feeds considered dry, at 40% moisture or less, if the storage areas are protected from precipitation.

(4) FEED STORAGE RUNOFF CONTROL SYSTEMS; GRANT DISQUALIFICATION. A county land conservation committee may not award a cost-share grant for a feed storage runoff control system if any of the following apply:

(a) The landowner intentionally aggravated a pollution discharge from the animal feeding operation.

(b) The landowner could have prevented the discharge of pollutants through improved management practices at nominal cost.

(c) The landowner holds, or is required to apply for, a Wisconsin pollution discharge elimination system permit for the animal feeding operation under s. 283.31, Stats.

(d) The landowner could have prevented the discharge of pollutants by complying with an operation and maintenance plan previously agreed upon by the landowner and one of the following:

1. The department.

2. The county land conservation committee.

3. DNR.

4. NRCS.

(5) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant may not reimburse any costs related to a feed storage runoff control system unless all of the following conditions are met:

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

1. NRCS conservation practice standard 313 waste storage facility (October, 2017).

2. NRCS conservation practice standard 561 heavy use area protection (November, 2022).

3. NRCS conservation practice standard 634 waste transfer (November, 2022).

4. NRCS conservation practice standard 635 vegetated treatment area (September, 2016).

5. NRCS conservation practice standard 656 constructed wetland (December, 2016).

6. NRCS conservation practice standard 590 nutrient management (December, 2015).

7. NRCS conservation practice standard 362 diversion (August, 2016).

8. Other standards specified by the department.

Note: Additional regulatory requirements in s. NR 213 may apply for runoff control systems that store only feed storage area runoff. Section NR 213.13 may have additional requirements for sweet corn silage stacks of greater than 150 tons. Section ATCP 51.20 (3) may have additional requirements for livestock facilities required to obtain a siting permit.

(b) The landowner agrees to a 10 year maintenance period for a feed storage runoff control system, and a nutrient management plan, if runoff is collected from a feed storage area over 1 acre in size and the runoff is not transferred to a manure storage system.

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

The maintenance period does not apply if the animal feeding operation is discontinued.

History: CR 13-016: cr. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (3) (d), (5) (a) 1. to 3. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (5) (a) 4. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am. (5) (a) 5. to. 7. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (3) (d), (5) (a) 1. to 7. Register May 2024 No. 821, eff. 6-1-24; correction in (5) (a) 5. made under s. 35.17, Stats., Register May 2024 No. 821.

ATCP 50.71 Field windbreaks. (1) DEFINITION. In this section, "field windbreak" means a strip or belt of trees, shrubs, or grasses established or renovated within or adjacent to a field, so as to control soil erosion by reducing wind velocities at the land surface.

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

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

(a) The windbreak is protected from destructive grazing.

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

1. NRCS conservation practice standard 382 fence (January, 2014).

2. NRCS conservation practice standard 380 windbreak-shelterbelt establishment and renovation (January, 2023).

3. NRCS conservation practice standard 472 access control (January, 2018).

4. NRCS conservation practice standard 650 windbreak/shelterbelt renovation (January, 2013).

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

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (b) 1. to 3. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (1), (3) (b) 1. to 3., cr. (3) (b) 4. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (3) (b) 1. Register May 2015 No. 713, eff. 6-1-15; CR 16-083: am. (3) (b) 2., 3. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (3) (b) 1. to 4. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.72 Filter strips. (1) DEFINITION. In this section:

(a) "Filter strip" means an area of herbaceous vegetation that separates an environmentally sensitive area from cropland, grazing land, or disturbed land. "Filter strip" does not include a wastewater treatment strip.

(b) "Wastewater treatment strip" has the meaning given in s. ATCP 50.94 (1).

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the following filter strip costs:

(a) Permanent fencing to protect the filter strip.

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

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

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

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

1. NRCS conservation practice standard 342 critical area planting (January, 2018).

2. NRCS conservation practice standard 382 fence (January, 2014).

3. NRCS conservation practice standard 386 field border (January, 2017).

4. NRCS conservation practice standard 393 filter strip (January, 2017).

5. NRCS conservation practice standard 472 access control (January, 2018).

6. NRCS conservation practice standard 484 mulching (June, 2016).

7. NRCS conservation practice standard 391 riparian forest buffer (January, 2013).

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

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (a) 1., 2., 5. and 6. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (3) (a) 1. to 3., 5. to 7. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (3) (a) 2. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (3) (a) 4. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am. (3) (a) 1., 3. to 6. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (3) (a) 1. to 7. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.73 Grade stabilization structures. (1) DEFINITION. In this section, "grade stabilization structure" means a structure which stabilizes the grade in a channel in order to protect the channel from erosion, or to prevent gullies from forming or advancing. A "grade stabilization structure" may include any of the following:

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

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

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

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

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

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

(d) Costs for fencing to protect the structure.

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

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

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

(c) DNR is notified and given the opportunity to conduct a feasibility study if the structure is adjacent to a navigable stream or a stream supporting a fishery.

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

1. NRCS conservation practice standard 342 critical area planting (January, 2018).

2. NRCS conservation practice standard 350 sediment basin (August, 2016).

3. NRCS conservation practice standard 362 diversion (August, 2016).

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

4. NRCS conservation practice standard 382 fence (January, 2014).

5. NRCS conservation practice standard 500 obstruction removal (June, 2021).

6. NRCS conservation practice standard 410 grade stabilization structure (August, 2021).

7. NRCS conservation practice standard 412 grassed waterway (August, 2021).

8. NRCS conservation practice standard 468 lined waterway or outlet (June, 2021).

9. NRCS conservation practice standard 484 mulching (June, 2016).

10. NRCS conservation practice standard 606 subsurface drain (June, 2021).

11. NRCS conservation practice standard 620 underground outlet (June, 2021).

12. NRCS conservation practice standard 638 water and sediment control basin (January, 2018).

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

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (d) 1. to 4. and 7. to 10. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (3) (d) 1. to 12. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (3) (d) 2., 4., 10., 11. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (3) (d) 7. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am. (3) (d) 1. to 3., 5. to 7., 9., 12. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (3) (d) 1. to 12. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.733 Habitat diversification. (1) DEFINITION. In this section, "habitat diversification" refers to the establishment and maintenance of native vegetative cover in an agricultural setting to provide habitat for wildlife and pollinator species.

Note: Habitat diversification practices convert small areas of agricultural fields to native stands of vegetation that augment normal agricultural operations; for example, establishing prairies strips within an agricultural field, or converting a small unproductive portion of an agricultural field to native pollinator habitat. While wildlife and pollinator habitat is the primary resource concern, the intention of these practices is to also provide water quality, soil health, and air quality benefits.

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

(a) The cost of fencing to protect the planted native vegetation.

(b) The cost to establish and manage vegetative cover, or to provide temporary cover until the planting is established. This may include costs for mulch, seed, and other necessary materials.

(c) The cost to shape, smooth, or prepare the site before establishing native vegetative cover.

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

(a) Plantings that include introduced species.

(b) Whole-field conversion.

(c) Fertilizing grass plantings.

(d) Pasture plantings.

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

(a) The habitat diversification practices comply with all of the following that apply:

1. NRCS conservation practice standard 420 wildlife habitat planting (June, 2020).

2. NRCS conservation practice standard 386 field borders (January, 2017), which must include the additional criteria to provide wildlife food and cover and pollinator or other beneficial organisms and the considerations to enhance wildlife, or pollinator value, or both.

3. NRCS conservation practice standard 472 access control (January, 2018).

4. NRCS conservation practice standard 393 filter strips (January, 2017), which must include the considerations for creating, restoring, or enhancing herbaceous habitat for wildlife and beneficial insects and pollinators.

5. NRCS conservation practice standard 382 fence (January, 2014).

6. NRCS Wisconsin agronomy technical note 5 establishing and maintaining native grasses, forbs and legumes (April, 2013).

7. NRCS Wisconsin guidance document 420 habitat development for pollinators and butterflies (August, 2022).

(b) Following establishment of native vegetative cover, management of habitat complies with all of the following that apply:

1. NRCS conservation practice standard 338 prescribed burning (March, 2016).

2. NRCS conservation practice standard 314 brush management (April, 2017).

3. NRCS conservation practice standard 315 herbaceous weed treatment (June, 2016).

(c) The landowner agrees to maintain the native vegetation for 10 years.

History: CR 23-024: cr. Register May 2024 No. 821, eff. 6-1-24; correction in (4) (b) 3. made under s. 35.17, Stats., Register May 2024 No. 821.

ATCP 50.738 Harvestable buffers. (1) DEFINITION. In this section, "harvestable buffers" refers to the establishment of grass strips that can be harvested for livestock forage and that are intended to reduce agricultural runoff from entering an adjacent waterbody.

(2) ELIGIBILITY REQUIREMENTS. To qualify for financial assistance under s. ATCP 50.41, all of the following eligibility criteria must be met:

(a) The site is not eligible for the Conservation Reserve Enhancement Program.

(b) The buffer must be adjacent to an eligible waterbody. Eligible waterbodies include perennial and seasonal streams, creeks and ditches; lakes and ponds; wetlands; and sink holes. Gullies or areas where water runs only after precipitation are ineligible.

(c) Must address a water quality resource concern.

(d) The site has been in agricultural production for 4 out of the previous 6 years.

(e) The planned buffer is at least 30-feet wide and no more than 150-feet wide.

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

(a) The cost of fencing to protect the planted vegetation.

(b) The cost to establish the harvestable buffer, or to provide temporary cover until the planting is established. This may include costs for mulch, seed, and other necessary materials.

(c) The cost to shape, smooth, or prepare the site before establishing vegetative cover.

(4) DESIGN, CONSTRUCTION, AND MAINTENANCE. Financial assistance under s. ATCP 50.41 may not be provided for harvestable buffers unless all of the following conditions are met:

(a) The harvestable buffer practices comply with all of the following that apply:

1. NRCS conservation practice standard 393 filter strip (January, 2017).

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

2. NRCS Wisconsin agronomy technical note 6 establishing and maintaining introduced grasses and legumes (March, 2013).

3. NRCS Wisconsin agronomy technical note 10 planning, design, management and maintenance of vegetative filter strips (VFS) (March, 2017).

4. NRCS conservation practice standard 315 herbaceous weed treatment (June 2016).

(b) The landowner agrees to maintain the vegetative cover for a period defined in the agreement with the county; the minimum maintenance period shall be 10 years.

History: CR 23-024: cr. Register May 2024 No. 821, eff. 6-1-24; correction in (1), (2) (b) made under s. 35.17, Stats., Register May 2024 No. 821.

ATCP 50.74 Hydrologic restoration. (1) DEFINITION. In this section "Hydrologic restoration" means applying combinations of practices designed to the extent possible to return wetland, stream, and floodplain hydrology to a natural and self-regulating condition in order to achieve such agricultural goals as to slow the flow of runoff, reduce flood peaks, restore surface and groundwater interactions, improve water quality, or increase soil retention, groundwater infiltration, base flow, upper watershed storage, and flood resilience. These practices can also be used to reduce or repair erosion and maintain water supply. These benefits are achieved by improving hydrologic conditions, connections, and functions. Hydrologic restoration practices may improve and protect fish and wildlife habitat as an incidental benefit. Hydrologic restoration may include any of the following components:

(a) Diversions under s. ATCP 50.70.

(b) Grade stabilization structures under s. ATCP 50.73.

(c) Streambank or shoreline protection under s. ATCP 50.88.

(d) Stream restoration under s. ATCP 50.882.

(e) Stream crossing under s. ATCP 50.885.

(f) Subsurface drains under s. ATCP 50.90.

(g) Underground outlets under s. ATCP 50.92.

(h) Water and sediment control basins under s. ATCP 50.95.

(i) Waterway systems under s. ATCP 50.96.

(j) Wetland development or restoration under s. ATCP 50.98.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs related to hydrologic restoration:

(a) Costs for system components under subs. (1) and (4) that are eligible for reimbursement under this subchapter.

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

(c) Costs to purchase and install permanent fencing around the project area.

(d) Preparatory shaping and smoothing operations.

(e) Costs for site preparation, grading, shaping and filling.

(3) INELIGIBLE COSTS. Except for violations of this chapter or ch. NR 151, a cost-share grant under s. ATCP 50.40 may not reimburse costs related to mitigation or correction of a violation of state or local law.

(4) DESIGN, CONSTRUCTION, AND MAINTENANCE STANDARDS. A cost-share grant under s. ATCP 50.40 may not reimburse hydrologic restoration costs unless all of the following conditions are met:

(a) The hydrologic restoration complies with all of the following that apply:

1. NRCS conservation practice standard 315 herbaceous weed treatment (June, 2016).

2. NRCS conservation practice standard 327 conservation cover (January, 2013).

3. NRCS conservation practice standard 332 contour buffer strips (July, 2016).

4. NRCS conservation practice standard 338 prescribed burning (March, 2016).

5. NRCS conservation practice standard 342 critical area planting (January, 2018).

6. NRCS conservation practice standard 356 dike (September, 2016).

7. NRCS conservation practice standard 382 fence (January, 2014).

8. NRCS conservation practice standard 386 field border (January, 2017).

9. NRCS conservation practice standard 391 riparian forest buffer (January, 2013).

10. NRCS conservation practice standard 396 aquatic organism passage (July, 2016).

11. NRCS conservation practice standard 472 access control (January, 2018).

12. NRCS conservation practice standard 484 mulching (June, 2016).

13. NRCS conservation practice standard 554 drainage water management (August, 2021).

14. NRCS conservation practice standard 587 structure for water control (January, 2018).

15. NRCS conservation practice standard 604 saturated buffer (June, 2021).

16. NRCS conservation practice standard 654 road/trail/landing closure and treatment (January, 2018).

17. NRCS conservation practice standard 666 forest stand improvement (October, 2017).

(b) The landowner agrees to maintain the hydrologic restoration treatments for 10 years.

History: CR 23-024: cr. Register May 2024 No. 821, eff. 6-1-24; correction in (1), (2) (a), (4) (a) 10., 17 made under s. 35.17, Stats., and correction in (3) made under s. 13.92 (4) (b) 7., Stats., Register May 2024 No. 821.

ATCP 50.75 Livestock fencing. (1) DEFINITION. In this section, "livestock fencing" means either of the following:

(a) Excluding livestock, by fencing or other means, in order to protect an erodible area or a practice under this subchapter.

(b) Restricting, by fencing or other means, human access to manure storage structures or other practices under this subchapter which may pose a hazard to humans.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse costs for livestock fencing, including the cost of designing and installing permanent fencing, gates, and related devices that are necessary to protect a practice, or to prevent degradation of waters of the state.

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

(a) Electric fence energizers.

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

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

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

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

1. NRCS conservation practice standard 382 fence (January, 2014).

2. NRCS conservation practice standard 472 access control (January, 2018).

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

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (4) (a) 1. and 2. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (4) (a) 1., 2. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (4) (a) 1. Register May 2015 No. 713, eff. 6-1-15; CR 16-083: am. (4) (a) 2. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (4) (a) 1., 2. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.76 Livestock watering facilities. (1) DEFINITION. In this section, "livestock watering facility" means a trough, tank, pipe, conduit, spring development, pump, well, or other device or combination of devices installed to deliver drinking water to livestock.

(2) COST-SHARE ELIGIBILITY. A cost-share grant under s. ATCP 50.40 may reimburse costs to establish a livestock watering facility if the livestock watering facility is a necessary component of a prescribed grazing system funded under s. ATCP 50.80, or if all of the following conditions are met:

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

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

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

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

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

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

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

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

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

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

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

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

1. NRCS conservation practice standard 574 spring development (August, 2021).

2. NRCS conservation practice standard 614 watering facility (June, 2021).

3. NRCS conservation practice standard 642 water well (August, 2021).

4. NRCS conservation practice standard 516 livestock pipeline (June, 2021).

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

6. NRCS conservation practice standard 561 heavy use area protection (November, 2022).

7. NRCS conservation practice standard 533 pumping plant (August, 2021).

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

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (5) (a) 1. and 3. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (5) (a) 2. to 4., cr. (5) (a) 6., 7. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (5) (a) 1., 6. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (5) (a) 2., 3., 6. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am. (5) (a) 4., 7. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (5) (a) 1. to 4., 6., 7. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.77 Milking center waste control systems. (1) DEFINITIONS. In this section:

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

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

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

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

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

(c) Other milking center waste control measures, approved by the department, that are needed to meet identified water quality objectives. These measures may include conservation sinks, precooler water utilization systems, manifold cleaning systems, air injection systems, wastewater treatment strips used with appropriate waste pretreatment measures, recyclable water storage and plumbing for automatic water and cleaning chemicals controls, flocculator systems, waste milk diverter valves, and booster pumps for parlor floor cleaning.

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

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

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

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

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

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

1. NRCS conservation practice standard 627 wastewater treatment, milk house (November, 2022).

2. NRCS conservation practice standard 313 waste storage facility (October, 2017).

3. NRCS conservation practice standard 634 waste transfer (November, 2022).

4. NRCS conservation practice standard 590 nutrient management (December, 2015).

5. NRCS conservation practice standard 635 vegetated treatment area (September, 2016).

6. NRCS conservation practice standard 656 constructed wetland (December, 2016).

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

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (4) (a) 1. to 5. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (4) (a) 1. to 4., cr. (4) (a) 6., 7. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (4) (a) 2. to 4. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (4) (a) 6. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am. (4) (a) 5., 7. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: r. (4) (a) 1., renum. (4) (a) 2. to 7. to be (4) (a) 1. to 6. and am. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.78 Nutrient management. (1) DEFINITIONS. In this section, "nutrient management" means controlling the amount, source, form, location, and timing of plant nutrient applications, including application of organic wastes, commercial fertilizers, soil reserves, and legumes, in order to provide plant nutrients while minimizing the movement of nutrients to surface water and groundwater.

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

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

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

(c) Costs to develop or revise a nutrient management plan.

(3) DESIGN AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not reimburse nutrient management costs under this section unless all of the following conditions are met:

(a) The nutrient management practice complies with NRCS conservation practice standard 590 nutrient management (December, 2015).

Note: The NRCS conservation practice standard 590 nutrient management can be obtained by visiting the department website at: https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx.

(b) The landowner agrees to maintain the nutrient management practice in each year for which cost-sharing is provided.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 05-013: am. (3) (a) Register May 2007 No. 617, eff. 6-1-07; CR 16-083: am. (3) (a) Register January 2017 No. 745, eff. 2-1-18; CR 23-024: am. (3) (a) Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.785 Nutrient treatment system. (1) DEFINITION. In this section "nutrient treatment system" means a system installed to intercept subsurface (tile) flow, groundwater, or surface runoff flow to reduce the concentration of phosphorus or nitrate nitrogen and minimize the movement of these nutrients to surface water, or groundwater, or both.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs related to a nutrient treatment system:

(a) Costs to design or install the system.

(b) Costs to purchase and install necessary underground pipe, subsurface drain tile, outlets and other necessary structures for water control or mechanical outlets.

(c) Costs to remove obstructions, if necessary for the installation of an effective nutrient management system.

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

(e) Cost to install permanent fencing to protect the nutrient treatment system.

(f) Other nutrient treatment systems, approved by the department, that are needed to meet identified water quality objectives.

(3) INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not reimburse any of the following costs related to a nutrient treatment system:

(a) Costs to design a nutrient treatment system that is not installed.

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

(c) Costs for any system, component, or practice that is not required to correct an identified water pollution hazard.

(d) Costs to install a nutrient treatment system in urban settings or that does not address agricultural runoff or drainage.

(4) DESIGN, CONSTRUCTION, AND MAINTENANCE STANDARDS. A cost-share grant under s. ATCP 50.40 may not reimburse costs related to a nutrient treatment system unless all of the following conditions are met:

(a) The nutrient treatment system complies with all of the following that apply:

1. NRCS conservation practice standard 605 denitrifying bioreactor (June, 2021).

2. NRCS conservation practice standard 782 phosphorus removal system (May, 2019).

3. NRCS conservation practice standard 606 subsurface drain (June, 2021)

4. NRCS conservation practice standard 342 critical area planting standard (January, 2018).

5. NRCS conservation practice standard 484 mulching (June, 2016).

6. NRCS conservation practice standard 554 drainage water management (August, 2021).

7. NRCS conservation practice standard 587 structure for water control (January, 2018).

8. NRCS conservation practice standard 604 saturated buffer (June, 2021).

(b) The landowner agrees to maintain the nutrient treatment system for 10 years unless farming operations on the affected land are discontinued.

History: CR 23-024: cr. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.79 Pesticide management. (1) DEFINITION. In this section, "pesticide management" means controlling the storage, handling, use, and disposal of pesticides used in crop production in order to minimize contamination of water, air, and nontarget organisms.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse costs for pesticide management described in a pesticide management plan, if required, or described in the plan for the design of a pesticide structure. A cost-share grant may reimburse any of the following costs related to pesticide management:

(a) Costs for integrated pest management field scouting.

(b) Costs to develop or revise a pesticide management plan.

(c) Costs for spill control facilities, including any of the following facilities that are needed:

1. A liquid-tight, reinforced concrete pad for a pesticide mixing area.

2. Water-tight walls or perimeter flow diversion structures to convey spills or contaminated water from a pesticide mixing area to a sump.

3. Perimeter flow diversion structures needed to convey surface water away from a pesticide mixing area.

4. A shallow sump collection area capable of storing spills, rinsate, washwater, and precipitation that may leak or fall on a pesticide mixing pad.

5. Roof structures and walls to protect a pesticide mixing area.

6. Pesticide mixing area approach ramps.

7. Water supply systems needed for a pesticide mixing area.

8. Sump pump alarm and recovery systems for a pesticide mixing area.

(3) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not reimburse pesticide management costs under this section unless all of the following conditions are met:

(a) The cost-shared practice complies with all of the following that apply:

1. NRCS conservation practice standard 595 pest management conservation system (January, 2022).

1m. NRCS conservation practice standard 309 agrichemical handling facility (September, 2021).

2. Pesticide mixing and loading standards under subch. VIII of ch. ATCP 29.

3. Standards specified by the University of Wisconsin-Madison, biological systems engineering department, in "*Wisconsin Minimum Design and Construction Standards for Concrete Mixing and Loading Pads and Secondary Containment Structures*" (February, 2005).

Note: The "Wisconsin Minimum Design and Construction Standards for Concrete Mixing and Loading Pads and Secondary Containment Structures" (February, 2005) is on file with the department and the legislative reference bureau. Copies may be purchased from the University of Wisconsin-Madison, Biological Systems Engineering Department, 460 Henry Mall, Madison, WI 53706, telephone: (608) 262-3311.

(b) The landowner agrees to maintain the pesticide management plan, if required, for the duration specified in the cost-share contract, and to maintain any structures for 10 years unless farming operations on the affected land are discontinued.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: r. and recr. (3) (a) Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (2) (intro.), (3) (a) 1., (b) Register February 2014 No. 698, eff. 5-1-14; CR 23-024: am. (3) (a) 1., cr. (3) (a) 1m. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.80 Prescribed grazing. (1) DEFINITION. In this section, "prescribed grazing" or "rotational grazing" means a grazing system which divides pastures into multiple cells, each of which is grazed intensively for a short period and then protected from grazing until its vegetative cover is restored.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of replacing animal lots or pastures, establishing a prescribed grazing system on croplands, or improving an existing prescribed grazing system that contributes sediments, nutrients, or pesticides to a water resource. This may include any of the following costs:

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

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

(c) The cost to establish, or enhance through interseeding or weed management, good seeding stands for pasture and hayland planting.

(d) The cost to establish a livestock watering facility. This may include pipeline and pasture watering systems, wells, spring developments, winter watering facilities such as geothermal or heated jug, heavy use area protection, and portable watering systems such as pumps, pipes, and tanks.

(e) The costs for practices that would remediate streambank erosion and streambank habitat degradation.

(f) The costs for practices that would exclude livestock from woodlands, sensitive wildlife habitat, and recreational lands.

(g) The costs for development of a prescribed grazing plan.

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

(a) The prescribed grazing practices comply with all of the following that apply:

1. NRCS conservation practice standard 342 critical area planting (January, 2018).

2. NRCS conservation practice standard 512 forage and biomass planting (January, 2013).

3. NRCS conservation practice standard 472 access control (January, 2018).

4. NRCS conservation practice standard 580 streambank and shoreline protection (September, 2021).

5. NRCS conservation practice standard 561 heavy use area protection (November, 2022).

6. NRCS conservation practice standard 528 prescribed grazing (April, 2017).

7. Guidelines specified in "Pastures for Profit: A Guide to Rotational Grazing," published by the University of Wisconsin-Extension (2014).

Note: Copies of "*Pastures for Profit: A Guide to Rotational Grazing*" are on file with the department and the legislative reference bureau. Copies may be obtained from the University of Wisconsin-Extension (UWEX Pub. No. A3529).

8. NRCS conservation practice standard 575 trails and walkways (August, 2021).

9. Standards for livestock watering facilities specified under s. ATCP 50.76.

10. NRCS conservation practice standard 315 herbaceous weed treatment (June, 2016).

11. NRCS conservation practice standard 314 brush management (April, 2017).

(b) The landowner agrees to maintain the prescribed grazing system for 10 years unless farming operations on the affected land are discontinued.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (a) 1. to 8. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (3) (a) 1. to 6., 8. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (3) (a) 4., 5., 8. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (3) (a) 5., 8. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am. (3) (a) 1., 3., 7., 8. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (2) (intro.), (c), (d), cr. (2) (g), am. (3) (a) 1. to 6., 8., cr. (3) (a) 10., 11. Register May 2024 No. 821, eff. 6-1-24; correction in (3) (a) 10., 11. made under s. 35.17, Stats., Register May 2024 No. 821.

ATCP 50.81 Relocating or abandoning animal feeding operations. (1) DEFINITIONS. In this section:

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

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

(b) "Animal feeding operation" means a feedlot or facility, other than a pasture, where animals are fed, confined, maintained, or stabled for 45 days or more in any 12-month period. Two or more animal feeding operations under common ownership or common management constitute a single animal feeding operation if any of the following apply:

1. The operations are adjacent.

2. The operations use common plans, acreage, or systems to landspread manure or other wastes.

3. Manure, barnyard runoff, or other wastes are commingled in a common storage facility prior to landspreading.

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

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

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

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

(c) The landowner agrees, in a covenant that runs with the land, that no person may reestablish an animal feeding operation at that site unless the department determines that the reestablished operation complies with s. ATCP 50.04. The department may waive this requirement if the department finds that the covenant is unnecessary.

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

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

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

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

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

2. Grading and establishing vegetation on the site.

3. Excluding livestock from the site.

4. Abandoning wells on the site.

(c) Costs to move buildings and other structures.

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

(e) Costs for livestock buildings and associated facilities needed to maintain the transferred livestock at the new site if all of the following apply:

1. The department determines that the relocation is necessary to comply with s. ATCP 50.04 and is cost-effective.

2. The cost-share grant does not exceed the appraised value of the buildings and associated facilities at the current site, or 70% of the costs of the replacement buildings and associated facilities, whichever is less.

3. The relocation will not cause a violation of s. ATCP 50.04.

Note: Cost-share grants under this section are subject to the limitations specified in s. ATCP 50.42.

(4) INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not reimburse any costs to reestablish an animal feeding operation that has been abandoned under this section.

(5) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant may not reimburse the cost of relocating or abandoning an animal feeding operation unless all of the following apply:

(a) The relocation or abandonment complies with the NRCS conservation practice standards for the conservation practices in this subchapter.

(b) The landowner agrees to maintain the relocated operation, if any, for 10 years unless farming operations on the affected land are discontinued.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 23-024: am. (5) (a) Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.82 Residue management. (1) DEFINITION. In this section, "residue management" means any of the following:

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

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

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse costs for any of the following residue management practices:

(am) No-till practices.

(bm) Strip-till practices.

(cm) Other, similar practices.

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

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

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

(c) The residue management complies with NRCS conservation practice standard 329 residue and tillage management-no till (January, 2018).

(d) The landowner agrees to maintain the residue management practice for each cropping season for which cost-sharing is provided.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (4) (c) 1. to 3. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (4) (c) 1. to 3., cr. (4) (c) 4. Register February 2014 No. 698, eff. 5-1-14; CR 16-083: am. (4) (c) 1., 2. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: cr. (2) (a) 1m., r. (2) (a) 2. to 4., (b), (3), consol. (4) (c) (intro.) and 1. and am., r. (4) (c) 2. to 4. Register May 2024 No. 821, eff. 6-1-24; renum. (2) (a) (intro.), 1., 1m., 5. to (2) (am) to (cm) under s. 13.92 (4) (b) 1., Stats., Register May 2024 No. 821.

ATCP 50.83 Riparian buffers. (1) DEFINITION. In this section, "riparian buffer" means an area in which vegetation is enhanced or established to reduce or eliminate the movement of sediment, nutrients, and other nonpoint source pollutants to an adjacent surface water resource or groundwater recharge area, to protect the banks of streams and lakes from erosion, and to protect fish habitat.

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Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

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

(a) Permanent fencing to protect a riparian buffer.

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

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

(d) Costs for land removed from agricultural production to install a riparian buffer.

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

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

1. NRCS conservation practice standard 342 critical area planting (January, 2018).

2. NRCS conservation practice standard 382 fence (January, 2014).

3. NRCS conservation practice standard 386 field border (January, 2017).

4. NRCS conservation practice standard 393 filter strip (January, 2017).

5. NRCS conservation practice standard 472 access control (January, 2018).

6. NRCS conservation practice standard 484 mulching (June, 2016).

7. NRCS conservation practice standard 391 riparian forest buffer (January, 2013).

9. NRCS conservation practice standard 420 wildlife habitat planting (June, 2020).

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

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (a) 1., 2., 5. and 6. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (3) (a) 1. to 3., 5. to 7., 9. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (3) (a) 2. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (3) (a) 4. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am. (3) (a) 1., 3. to 6. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (3) (a) 1. to 7., r. (3) (a) 8., am. (3) (a) 9. Register May 2024 No. 821, eff. 6-1-24; correction in (3) (a) 1. made under s. 35.17, Stats., Register May 2024 No. 821.

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

(a) "Animal housing" means a building or structure used exclusively for the housing, raising, or sheltering of animals.

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

(2) COST-SHARE ELIGIBILITY. A cost-share grant under s. ATCP 50.40 may reimburse the cost of constructing a roof if the county land conservation committee finds that the roof construction is the most practical and cost-effective way to achieve compliance with state or local regulations.

(3) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of designing and constructing a roof, over an existing or relocated animal lot or manure storage structure, that is necessary to prevent barnyard runoff or discharges from a manure storage structure.

(4) INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not reimburse the costs to install a roof over feed storage, machinery storage, or animal housing areas, except as provided in sub. (3).

(5) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not reimburse the cost of installing a roof unless all of the following conditions are met:

(a) The roof complies with NRCS conservation practice standard 367 roofs and covers (April, 2016).

(b) The roof structure has sufficient ventilation to protect farm operators, livestock, and the roof.

(c) The roof and supporting structure are constructed of materials with a life expectancy of 10 years or more.

(d) The landowner agrees not to establish additional outdoor animal lots on the site for the duration of the cost-share agreement maintenance period, except with adequate runoff control practices approved by the department.

(e) The landowner agrees not to convert a roofed animal lot structure, cost-shared under this chapter, for use other than as an animal lot for the duration of the maintenance agreement.

(f) The landowner agrees to maintain the roof for 10 years unless farming operations on the affected land are discontinued.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: r. and recr. (5) (a) Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (5) (a) Register February 2014 No. 698, eff. 5-1-14; CR 16-083: am. (5) (a) Register January 2018 No. 745, eff. 2-1-18; CR 23-024: renum. (1) (a) to (am) and am., cr. (1) (a), r. (1) (b), consol. (4) (intro.) and (c) and am., r. (4) (a), (b), am. (5) (a), (e) Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.85 Roof runoff systems. (1) DEFINITION. In this section, "roof runoff system" means facilities for collecting, controlling, diverting, and disposing of precipitation from roofs. A "roof runoff system" may include gutters, downspouts, erosion-resistant channels, subsurface drains, and trenches.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of designing and constructing a roof runoff system as part of a barnyard runoff control system or manure storage system if the roof runoff system is necessary to prevent roof runoff from flowing across areas of concentrated manure.

(3) INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not reimburse costs for structures that divert water to areas not adequately protected from erosion.

(4) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not reimburse the cost of installing a roof runoff system unless all of the following conditions are met:

(a) The roof runoff system complies with all of the following that apply:

1. NRCS conservation practice standard 558 roof runoff structure (September, 2021).

2. NRCS conservation practice standard 620 underground outlet (June, 2021).

(b) The landowner agrees to maintain the roof runoff system for 10 years unless farming operations on the affected land are discontinued.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (4) (a) 1. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (4) (a) 1., 2. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (4) (a) 2. Register May 2015 No. 713, eff. 6-1-15; CR 23-024: am. (4) (a) 1., 2., Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.86 Sediment basins. (1) DEFINITION. In this section:

(a) "Sediment basins" means permanent basins that reduce the transport of waterborne pollutants such as eroded soil sediment, debris, and manure sediment. Sediment basins may include containment walls or berms, pickets or screens to filter debris, orifices or weirs to control discharge, and conduits to direct runoff to treatment or discharge areas.

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(b) "Maximum storage capacity" means the volume of water, in acre-feet, capable of being stored behind a dam at maximum water elevation without overtopping any part that is not part of the spillway system.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of designing and constructing a sediment basin, including costs for heavy use area protection, livestock fencing, filter strips, waste transfer, underground outlets, and critical area plantings.

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

(a) Basins with a structural height of more than 25 feet or with a maximum storage capacity of more than 50 acre-feet.

(b) Basins whose failure may endanger human life, or real or personal property.

(4) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not reimburse the cost of installing a sediment basin unless all of the following conditions are met:

(a) Filter strips or buffers are used to filter any discharge from the sediment basin.

(b) The sediment basin complies with all of the following that apply:

1. NRCS conservation practice standard 342 critical area planting (January, 2018).

2. NRCS conservation practice standard 350 sediment basin (August, 2016).

3. NRCS conservation practice standard 634 waste transfer (November, 2022).

4. NRCS conservation practice standard 382 fence (January, 2014).

5. NRCS conservation practice standard 635 vegetated treatment area (September, 2016).

6. NRCS conservation practice standard 561 heavy use area protection (November, 2022).

7. NRCS conservation practice standard 620 underground outlet (June, 2021).

8. Wisconsin DNR conservation practice standard 1001, wet detention basin (October, 2007).

Note: Copies of the DNR conservation practice standard 1001 are on file with the department and the legislative reference bureau. Copies may be obtained by visiting the DNR website at: http://dnr.wi.gov/topic/stormwater/standards/index.html.

9. NRCS conservation practice standard 632 waste separation facility (November, 2022).

(c) The landowner agrees to maintain the sediment basin for 10 years unless farming operations on the affected land are discontinued.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (4) (b) 1. to 6. and 8. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (4) (b) 1. to 8. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (4) (b) 2. to 4., 6., 7. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (4) (b) 5., 6. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am.(4) (b) 1., 2. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (4) (b) 1. to 7., cr. (4) (b) 9. Register May 2024 No. 821, eff. 6-1-24; correction in (4) (b) 1. made under s. 13.92 (4) (b) 1., Stats., Register May 2024 No. 821.

ATCP 50.87 Sinkhole treatment. (1) DEFINITION. In this section, "sinkhole treatment" means modifying a sinkhole, or the area around a sinkhole, to reduce erosion, prevent expansion of the hole, and reduce pollution of water resources. Modifications may include the diversion of runoff around a sinkhole, or the alteration of a sinkhole by excavation, cleanout, filter treatment, sealing, or refilling.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs related to sinkhole treatment:

(a) Costs for the design and construction of a grassed waterway or diversion to direct surface runoff around a sinkhole.

(b) Costs for the design and construction of a grassed waterway or diversion to direct surface runoff around a geologic depression to prevent the formation of a sinkhole.

(c) Costs for the design and construction of a modification to a sinkhole for the purpose of protecting groundwater resources from contamination.

(3) INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not reimburse costs for any system, component, or practice that is not needed to correct an identified water pollution hazard.

(4) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not reimburse any costs related to sinkhole treatment unless all of the following conditions are met:

(a) The treatment complies with all of the following that apply:

1. NRCS conservation practice standard 527 sinkhole treatment (September, 2021).

2. NRCS conservation practice standard 362 diversion (August, 2016).

3. NRCS conservation practice standard 412 grassed waterway (August, 2021).

(b) The landowner agrees to maintain the sinkhole treatment for 10 years unless farming operations on the affected land are discontinued.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (4) (a) 2. and 3. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (4) (a) 1. to 3. Register February 2014 No. 698, eff. 5-1-14; CR14-047: am. (4) (a) 1. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (4) (a) 3. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am. (4) (a) 1. to 3. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (4) (a) 1. to 3. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.88 Streambank or shoreline protection. (1) DEFINITION. In this section, "streambank or shoreline protection" means waterbody-specific treatments used to stabilize and protect the eroding banks of streams or constructed channels, and shorelines of lakes, reservoirs, or estuaries. The practice is designed and installed to provide water quality benefits or control soil erosion including degradation from livestock and may protect fish habitat as an incidental benefit. Streambank or shoreline protection may include any of the following components:

(a) Critical area stabilization under s. ATCP 50.69.

(b) Diversions under s. ATCP 50.70.

(c) Grade stabilization under s. ATCP 50.73.

(cg) Livestock fencing under s. ATCP 50.75.

(cr) Livestock watering facilities under s. ATCP 50.76.

(d) Riparian buffers under s. ATCP 50.83.

(e) Roof runoff systems under s. ATCP 50.85.

(em) Stream crossing under s. ATCP 50.885.

(f) Subsurface drain under s. ATCP 50.90.

(g) Underground outlet under s. ATCP 50.92.

(h) Wetland development or restoration under s. ATCP 50.98.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs related to streambank or shoreline protection:

(a) Costs to install new soil bioengineering and structural treatments including rock riprap. Wood chunks, unsorted demolition material, brick, plaster, blacktop, and other materials that may produce leachates may not be used as riprap. A cost-share grant may reimburse costs for rock and timber riprap or lunkers used to establish fish habitat, in combination with the restoration

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of a riparian buffer and as part of a streambank or shoreline protection scheme, provided that reimbursement for fish habitat does not exceed 25% of the cost-share grant.

(b) Costs to shape streambanks or shorelines before installing protective plantings or structures.

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

(2m) INELIGIBLE COSTS. Except for violations of this chapter or ch. NR 151, a cost-share grant under s. ATCP 50.40 may not reimburse costs related to mitigation or correction of a violation of state or local laws.

(3) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not reimburse costs for streambank or shoreline protection unless all of the following conditions are met:

(a) The streambank or shoreline protection complies with all of the following that apply:

1. NRCS conservation practice standard 342 critical area planting (January, 2018).

2. NRCS conservation practice standard 382 fence (January, 2014).

3. NRCS conservation practice standard 580 streambank and shoreline protection (September, 2021).

4. NRCS conservation practice standard 612 tree/shrub establishment (January, 2018).

5. NRCS conservation practice standard 561 heavy use area protection (November, 2022).

6. NRCS conservation practice standard 326 clearing and snagging (June, 2016).

7. NRCS conservation practice standard 395 stream habitat improvement and management (September, 2021).

8. NRCS conservation practice standard 582 open channel (September, 2021).

9. NRCS conservation practice standard 584 channel bed stabilization (September, 2021).

(b) Cost-share recipients shall obtain all required DNR permits before installing any practices. The department may require documentation that permits have been obtained before it makes reimbursements under this chapter.

(c) The landowner agrees to maintain the streambank or shoreline protection for 10 years unless the practice is no longer required to prevent the soil and water resource problem for which the practice was installed.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (a) 1. to 5. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (title), renum. (1) to (1) (intro.), cr. (1) (a) to (h), am. (2) (intro.), r. (2) (a), renum. (2) (b) to (2) (a) and am., renum. (2) (c) to (2) (b), r. (2) (d), renum. (2) (e) to (2) (c), r. (2) (f), cr. (2m), am. (3) (a) 1. to 5., r. and recr. (3) (b), am. (3) (c) Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (3) (a) 2., 3., 5. Register May 2015 No. 713, eff. 6-1-15; CR 16-102: am. (3) (a) 5. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am. (3) (a) 1. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: cr. (1) (cg), (cr), (em), am. (2) (a), (3) (a) 1. to 5., cr. (3) (a) 6. to 9. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.882 Stream restoration. (1) DEFINITION. In this section "stream restoration" means applying combinations of practices designed to the extent possible to restore or repair healthy channel conditions, connections, and functions adjacent to or upstream from erosion-prone agricultural lands or to address other resource concerns. These practices shall be installed to slow the flow of runoff, reduce flood peaks, restore surface and groundwater interactions, improve water quality, or to increase soil retention, groundwater infiltration, base flow, upper watershed storage, and flood resilience. These practices can also be used to reduce or repair erosion, maintain water supply, maintain sediment transport continuity, restore natural drainage, and stabilize banks. Stream restoration practices may improve fish and wildlife habitat as an incidental benefit. Stream restoration may include any of the following components:

(a) Hydrologic restoration under s. ATCP 50.74.

(b) Streambank or shoreline protection under s. ATCP 50.88.

(c) Stream crossing under s. ATCP 50.885.

(d) Waterway systems under s. ATCP 50.96.

(e) Wetland development or restoration under s. ATCP 50.98.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs related to stream restoration:

(a) Costs for system components under subs. (1) and (4) that are eligible for reimbursement under this subchapter.

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

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

(d) Preparatory shaping and smoothing operations.

(e) Costs for site preparation, grading, shaping and filling.

(3) INELIGIBLE COSTS. Except for violations of this chapter or ch. NR 151, a cost-share grant under s. ATCP 50.40 may not reimburse costs related to mitigation or correction of a violation of state or local law.

(4) DESIGN, CONSTRUCTION, AND MAINTENANCE STANDARDS. A cost-share grant under s. ATCP 50.40 may not reimburse stream restoration costs unless all of the following conditions are met:

(a) The stream restoration complies with all of the following that apply:

1. NRCS conservation practice standard 315 herbaceous weed treatment (June, 2016).

2. NRCS conservation practice standard 327 conservation cover (January, 2013).

3. NRCS conservation practice standard 342 critical area planting (January, 2018).

4. NRCS conservation practice standard 356 dike (September, 2016).

5. NRCS conservation practice standard 382 fence (January, 2014).

6. NRCS conservation practice standard 391 riparian forest buffer (January, 2013).

7. NRCS conservation practice standard 395 stream habitat improvement and management (September, 2021).

8. NRCS conservation practice standard 396 aquatic organism passage (July, 2016).

9. NRCS conservation practice standard 472 access control (January, 2018).

10. NRCS conservation practice standard 484 mulching (June, 2016).

11. NRCS conservation practice standard 554 drainage water management (August, 2021).

12. NRCS conservation practice standard 582 open channel (September, 2021).

13. NRCS conservation practice standard 584 channel bed stabilization (September, 2021).

14. NRCS conservation practice standard 587 structure for water control (January, 2018).

15. NRCS conservation practice standard 604 saturated buffer (June, 2021).

16. NRCS conservation practice standard 643 restoration of rare or declining natural communities (May, 2014).

(b) The landowner agrees to maintain the stream restoration treatments for 10 years.

History: CR 23-024: cr. Register May 2024 No. 821, eff. 6-1-24; correction in (2) (a) made under s. 35.17, Stats., and correction in (3) made under s. 13.92 (4) (b) 7., Stats., and correction in (4) (a) 3., 8. made under s. 35.17, Stats, Register May 2024 No. 821.

ATCP 50.885 Stream Crossing. (1) DEFINITION. In this section, "stream crossing" means a road or pathway which confines or directs the movement of livestock, farm equipment, or vehicular traffic over or through (ford crossing) a stream, and which is designed and installed to improve water quality, reduce erosion, protect an installed practice, or control livestock access to a stream.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs related to a stream crossing:

(a) The costs of constructing a culvert, ford, or other allowed stream crossing structure other than a bridge.

(b) The costs of installing conservation practices necessary to limit water quality impairment from a stream crossing.

(3) INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not reimburse for the costs of a stream crossing if the traffic can be re-directed along another route that would not result in the same water quality impairment.

(4) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not reimburse the cost of establishing a stream crossing unless all of the following conditions are met:

(a) The stream crossing complies with all of the following that apply:

1. NRCS conservation practice standard 560 access road (January, 2018).

2. NRCS conservation practice standard 580 streambank and shoreline protection (September, 2021).

3. NRCS conservation practice standard 382 fence (January, 2014).

4. NRCS conservation practice standard 578 stream crossing (January, 2018).

(b) The landowner agrees to maintain the stream crossing for 10 years unless the farming operations on the affected land are discontinued or the practice is no longer required to prevent the soil and water resource problem for which the practice was installed.

History: CR 13-016: cr. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (4) (a) 1. to 3. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (4) (a) 1., 2., 4. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am. (4) (a) 2. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (1), (4) (a) 1. to 4. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.89 Stripcropping. (1) DEFINITION. In this section, "stripcropping" means growing crops in a systematic strip arrangement in which strips of grass, legumes, or other close growing crops are alternated with strips of clean tilled crops or fallow, and in which all of the strips are established on the contour or across a slope to reduce water or wind erosion.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of establishing a stripcropping system, including costs for the necessary removal of obstructions.

(3) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not reimburse the cost of establishing a stripcropping system unless all of the following conditions are met:

(a) The stripcropping operations are performed, to the maximum extent feasible, on the contour.

(b) The stripcropping system complies with all of the following that apply:

1. NRCS conservation practice standard 500 obstruction removal (June, 2021).

2. NRCS conservation practice standard 585 stripcropping (June, 2016).

(c) The landowner agrees to maintain the stripcropping in each cropping season for which cost-sharing is provided.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (title), (1) to (3) (b) (intro.), (b) 2. and (c) Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (3) (b) 1., 2., r. (3) (b) 3., 4. Register February 2014 No. 698, eff. 5-1-14; CR 16-083: am. (3) (b) 1., 2. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (3) (b) 1., 2., (c) Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.90 Subsurface drains. (1) DEFINITION. In this section, "subsurface drain" means a conduit installed below the surface of the ground to collect drainage water and convey it to a suitable outlet.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of designing and constructing a subsurface drain as part of a manure storage system, barnyard runoff control system, feed storage runoff control system, erosion control system, or as part of a nutrient treatment system.

(3) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant may not reimburse the cost of establishing a subsurface drain unless all of the following conditions are met:

(a) The subsurface drain is a necessary component of a manure storage system, barnyard runoff control system, feed storage runoff control system, erosion control system, or as part of a nutrient treatment system.

(b) The subsurface drain complies with all of the following that apply:

1. NRCS conservation practice standard 606 subsurface drain (June, 2021).

2. NRCS conservation practice standard 620 underground outlet (June, 2021).

(c) The landowner agrees to maintain the subsurface drain for 10 years unless farming operations on the affected land are discontinued.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (b) 1. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (3) (b) 1., 2. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (3) (b) 1., 2. Register May 2015 No. 713, eff. 6-1-15; CR 23-024: am. (2), (3) (a), (b) 1., 2. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.91 Terrace systems. (1) DEFINITION. In this section, "terrace system" means a system of ridges and channels installed on the contour with a non-erosive grade and suitable spacing.

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

(a) Costs to install the system, including necessary costs for necessary leveling, filling, and obstruction removal.

(b) Costs to purchase and install necessary underground pipe outlets and other necessary mechanical outlets.

(c) Costs to modify an ineffective system, unless the system has been rendered ineffective because of changes in cropping patterns or equipment usage.

(d) Costs to establish permanent vegetative cover, or to provide temporary cover until permanent cover is established. This

may include costs for mulch, fertilizer, and other necessary materials.

(3) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant may not reimburse terrace system costs unless all of the following conditions are met:

(a) The terrace system includes a stable outlet or waterway of adequate capacity.

(b) The terrace system complies with all of the following that apply:

1. NRCS conservation practice standard 342 critical area planting (January, 2018).

2. NRCS conservation practice standard 412 grassed waterway (August, 2021).

3. NRCS conservation practice standard 468 lined waterway or outlet (June, 2021).

4. NRCS conservation practice standard 500 obstruction removal (June, 2021).

5. NRCS conservation practice standard 600 terrace (August, 2021).

6. NRCS conservation practice standard 606 subsurface drain (June, 2021).

7. NRCS conservation practice standard 620 underground outlet (June, 2021).

8. NRCS conservation practice standard 638 water and sediment control basin (January, 2018).

(c) The landowner agrees to maintain the terrace system for 10 years unless farming operations on the affected land are discontinued.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (b) 1. to 3., 5. and 6. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (3) (b) 1. to 8. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (3) (b) 6., 7. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (3) (b) 2., 5. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am. (3) (b) 1., 2., 4., 8. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (3) (b) 1. to 8. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.92 Underground outlets. (1) DEFINITION. In this section, "underground outlet" means a conduit installed below the surface of the ground to collect surface water and convey it to a suitable outlet.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of designing and constructing an underground outlet as part of a manure storage system, barnyard runoff control system, or erosion control system.

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

(a) The underground outlet is a necessary component of a manure storage system, barnyard runoff control system, or erosion control system.

(b) The underground outlet complies with all of the following that apply:

1. NRCS conservation practice standard 606 subsurface drain (June, 2021).

2. NRCS conservation practice standard 620 underground outlet (June, 2021).

(c) The landowner agrees to maintain the underground outlet for 10 years unless farming operations on the affected land are discontinued.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (b) 1. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (3) (b) 1., 2. Register February 2014 No. 698, eff. 5-1-14; CR14-047: am. (3) (b) 1., 2. Register May 2015 No. 713, eff. 6-1-15; CR 23-024: am. (3) (b) 1., 2. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.925 Verification of depth to bedrock. (1) DEFINITION. In this section, "verification of depth to bedrock" means investigative methods for infield depth to bedrock verification for fields receiving mechanical applications of manure.

(2) COST-SHARE ELIGIBILITY. A cost-share grant under s. ATCP 50.40 may reimburse a landowner for the costs of verifying depth to bedrock in an area subject to s. NR 151.075.

(3) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs related to verification of depth to bedrock:

(a) Costs to conduct a site assessment.

(b) Costs to prepare the plan for verification of depth to bedrock.

(c) Costs associated with implementation of the plan for verification of depth to bedrock using intrusive methods.

(d) Costs associated with implementation of the plan for verification of depth to bedrock using geophysical methods.

(e) Costs associated with ground truthing data collected through geophysical methods.

(f) Costs to develop department field maps as defined in the technical standard 01 verification of depth to bedrock (July, 2021).

(g) Costs to backfill or abandon boreholes and test pits.

(4) INELIGIBLE COSTS. Ineligible costs include costs to become a qualified verifier.

(5) PLANS AND SPECIFICATIONS. A cost-share grant may not reimburse any costs for verification of depth to bedrock unless all of the following conditions are met:

(a) The verification of depth to bedrock complies with the department technical standard 01 verification of depth to bedrock (July, 2021).

(b) The following that apply are completed and submitted to the department:

1. Field data reporting forms.

Note: Field data reporting forms in subd. 1. should identify the data listed in Attachment 3 of the department technical standard 01 verification of depth to bedrock (July, 2021). A template form for the intrusive verification method can be obtained at: https://datcp.wi.gov/Pages/Programs_Services/DepthToBedrockStandard.aspx.

2. Geophysical data map, if applicable, with legend, unit and ground truthing locations.

3. Borehole abandonment forms.

4. Name and qualifications of individual analyzing the field data.

5. A computer file with tabulated data in spreadsheet format that identifies latitude/longitude coordinates as recorded during the field effort.

6. Field maps depicting intrusive method data points and depth to bedrock, including information below:

a. Borings or geophysical survey locations, or both, by recording latitude/longitude coordinates of verification borings and geophysical survey locations using the WGS84 coordinate system.

b. Field location, field boundary, acres, field identification number, scale, all borings and geophysical survey locations, or both using the above requirements and a North directional arrow.

History: CR 23-024: cr. Register May 2024 No. 821, eff. 6-1-24; correction in (3) (f) made under s. 35.17, Stats., and cr. sub. (4) (title) under s. 13.92 (4) (b) 2., Stats., Register May 2024 No. 821.

ATCP 50.93 Waste transfer systems. (1) DEFINITION. In this section, "waste transfer system" means components such as pumps, pipes, conduits, valves, and other structures installed to convey manure, feed storage, and milking center wastes

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from buildings and animal feeding operations to a storage structure, loading area, or treatment area.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of designing and constructing a waste transfer system which is a necessary component of a manure storage system, barnyard runoff control system, or milking center waste system funded under this chapter, provided that the waste transfer system is designed and used for that sole purpose.

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

(a) Portable equipment for spreading wastes on land or for incorporating wastes into land.

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

(4) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not reimburse the cost of installing a waste transfer system unless all of the following conditions are met:

(a) The waste transfer system complies with conservation practice standard 634 waste transfer (November, 2022).

(b) The landowner agrees to maintain the waste transfer system for 10 years unless farming operations on the affected land are discontinued.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (4) (a) 1. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (4) (a) 1., 2. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (4) (a) 1., 2. Register May 2015 No. 713, eff. 6-1-15; CR 23-024: am. (1), consol. (4) (a) (intro.) and 1. and renum. (4) (a) and am., r. (4) (a) 2. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.94 Wastewater treatment strips. (1) DEFINITION. In this section, "wastewater treatment strip" means an area of herbaceous vegetation that is used as part of an agricultural waste management system to remove pollutants from animal lot runoff or wastewater, such as runoff or wastewater from a milking center or feed storage area.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the following wastewater treatment strip costs:

(a) Permanent fencing to protect the wastewater treatment strip.

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

(c) Costs to shape, smooth, or prepare the wastewater treatment strip before establishing a permanent vegetative cover.

(3) DESIGN, CONSTRUCTION, AND MAINTENANCE STANDARDS. A cost-share grant under s. ATCP 50.40 may not reimburse wastewater maintenance strip costs unless all the following conditions are met:

(a) The wastewater treatment strip complies with all the following that apply:

1. NRCS conservation practice standard 342 critical area planting (January, 2018).

2. NRCS conservation practice standard 382 fence (January, 2014).

3. NRCS conservation practice standard 472 access control (January, 2018).

4. NRCS conservation practice standard 484 mulching (June, 2016).

5. NRCS conservation practice standard 635 vegetated treatment area (September, 2016).

(b) The landowner agrees to maintain the wastewater treatment strip for 10 years unless farming operations on the affected land are discontinued.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (a) 1. to 5. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (3) (a) 1. to 5. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (3) (a) 2. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (3) (a) 5. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am. (3) (a) 1., 3., 4. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (1), (3) (a) 1. to 5. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.95 Water and sediment control basins. (1) DEFINITIONS. In this section:

(a) "Manure storage facility" has the meaning given in s. ATCP 50.62 (1) (c).

(b) "Water and sediment control basin" means an earthen embankment or a ridge and channel combination which is installed across a slope or minor watercourse to trap or detain runoff and sediment. "Water and sediment control basin" does not include a manure storage facility or a structure designed to collect runoff and sediment from concentrated animal feedlots.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of designing and constructing a water and sediment control basin, including practices necessary to protect the basin from livestock.

(3) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant may not reimburse the cost of installing a water and sediment control basin unless all of the following conditions are met:

(a) The water and sediment control basin complies with all of the following that apply:

1. NRCS conservation practice standard 342 critical area planting (January, 2018).

2. NRCS conservation practice standard 382 fence (January, 2014).

3. NRCS conservation practice standard 638 water and sediment control basin (January, 2018).

4. NRCS conservation practice standard 620 underground outlet (June, 2021).

(b) The landowner agrees to maintain the water and sediment control basin for 10 years unless farming operations on the affected land are discontinued.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (a) 1. and 2. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (3) (a) 1. to 4. Register February 2014 No. 698, eff. 5-1-14; CR14-047: am. (3) (a) 2., 4. Register May 2015 No. 713, eff. 6-1-15; CR 16-083: am. (3) (a) 1., 3. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (3) (a) 1. to 4. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.96 Waterway systems. (1) DEFINITION. In this section, "waterway system" means a natural or constructed waterway or outlet that is shaped, graded, and covered with a vegetation or another suitable surface material to prevent erosion by runoff waters.

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

(a) Costs for site preparation, grading, shaping, and filling.

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

(c) Costs for the necessary removal of obstructions, the necessary installation of subsurface drains and underground outlets, and the necessary installation of machinery crossings.

(3) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not reimburse costs for a waterway system unless all of the following conditions are met:

(a) Waterways are permanently covered by vegetation or other suitable surface materials to prevent erosion. Close-sown small grains, annual grasses, or mulches may be used for temporary protection if followed by an appropriate permanent vegetative cover.

(b) The system complies with all of the following that apply:

1. NRCS conservation practice standard 342 critical area planting (January, 2018).

2. NRCS conservation practice standard 382 fence (January, 2014).

3. NRCS conservation practice standard 412 grassed waterway (August, 2021).

4. NRCS conservation practice standard 484 mulching (June, 2016).

5. NRCS conservation practice standard 500 obstruction removal (June, 2021).

6. NRCS conservation practice standard 606 subsurface drain (June, 2021).

7. NRCS conservation practice standard 620 underground outlet (June, 2021).

8. NRCS conservation practice standard 468 lined waterway or outlet (June, 2021).

(c) The landowner agrees to maintain the waterway system for 10 years unless farming operations on the affected land are discontinued.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (b) 1. to 4. and 6. Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (3) (b) 1. to 7., cr. (3) (b) 8. Register February 2014 No. 698, eff. 5-1-14; CR 14-047: am. (3) (b) 2., 6., 7. Register May 2015 No. 713, eff. 6-1-15; CR 16-012: am. (3) (b) 3. Register August 2016 No. 728, eff. 9-1-16; CR 16-083: am. (3) (b) 1., 3. to 5. Register January 2018 No. 745, eff. 2-1-18; CR 23-024: am. (3) (b) 1. to 8. Register May 2024 No. 821, eff. 6-1-24.

ATCP 50.97 Well decommissioning. (1) DEFINITION. In this section, "well decommissioning" means permanently disabling and sealing a well to prevent contaminants from reaching groundwater.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse costs to design and implement a well decommissioning, including costs to fill the well, seal the well, and shape the land to protect the abandoned wellhead from precipitation and runoff.

(3) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not reimburse the cost of well decommissioning unless the well decommissioning complies with all of the following that apply:

(a) NRCS conservation practice standard 351 well decommissioning (August, 2021).

(b) Section NR 812.26, related to well and drillhole decommissioning.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (a) Register April 2009 No. 640, eff. 5-1-09; CR 13-016: am. (3) (a) Register February 2014 No. 698, eff. 5-1-14; CR 16-012: am. (3) (a) Register August 2016 No. 728, eff. 9-1-16; CR 23-024: am. (3) (a) Register May 2024 No. 821, eff. 6-1-24; correction in (3) (a) made under s. 35.17, Stats., Register May 2024 No. 821.

ATCP 50.98 Wetland development or restoration. (1) DEFINITION. In this section, "wetland development or restoration" means creating or restoring hydrologic or other conditions suitable for wetland vegetation or other important wetland functions. Construction of berms, destroying of tile lines or drainage ditch functions, or excavating areas (scrapes) are among common practices.

(2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs related to the development or restoration of wetlands:

(a) Costs for earth moving to construct or remove berms, levees, or dikes.

(b) Costs for earth moving to fill in portions of drainage ditches.

(c) Costs to destroy portions of tile lines.

(d) Costs to establish vegetative cover to develop or restore wetlands, consistent with the practice goals.

(e) Costs for earth moving to construct scrapes.

(3) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not reimburse wetland development or restoration costs unless all of the following conditions are met:

(a) The wetland development or restoration complies with all of the following that apply:

1. NRCS conservation practice standard 657 wetland restoration (February, 2020).

2. NRCS conservation practice standard 658 wetland creation (October, 2016).

(b) The landowner agrees to maintain the wetland restoration practice for at least 10 years.

History: CR 01-090: cr. Register September 2002 No. 561, eff. 10-1-02; CR 08-075: am. (3) (a) Register April 2009 No. 640, eff. 5-1-09; CR 16-083: am. (3) (a) Register January 2018 No. 745, eff. 2-1-18; correction in (3) (a) made under s. 35.17, Stats., Register January 2018 No. 745; CR 23-024: am. (1), cr. (2) (e), renum. (3) (a) to (3) (a) (intro.) and 1. and am., cr. (3) (a) 2. Register May 2024 No. 821, eff. 6-1-24.