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STATE OF WISCONSIN )  
 ) SS.  
DEPARTMENT OF AGRICULTURE, )  
TRADE & CONSUMER PROTECTION )

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Kenneth P. Robert, Administrator, Agricultural Resource Management Division, State of Wisconsin Department of Agriculture, Trade and Consumer Protection, and custodian of the official records of said Division, do hereby certify that the annexed order adopting rules relating to the state soil erosion control program, Chapter Ag 160, Wis. Adm. Code, was duly approved and adopted by the Department on January 5, 1984.

I further certify that said copy has been compared by me with the original on file in the Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Department offices in the city of Madison, this 5th day of January, 1984.

Kenneth P. Robert  
Kenneth P. Robert, Administrator  
Agricultural Resource Management  
Division

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ORDER OF THE

STATE OF WISCONSIN

DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

ADOPTING, AMENDING OR REPEALING RULES

1 To create chapter Ag 160 of the Wisconsin administrative code,  
2 relating to the state soil erosion control program.

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Analysis Prepared by the Department of Agriculture  
Trade and Consumer Protection

The department of agriculture, trade and consumer protection is responsible, under ss. 92.05 and 92.10, Stats., for the development and administration of a statewide soil erosion control program. This rule will implement that program by establishing long range erosion control goals; defining standards and procedures for preparation of soil erosion control plans by county land conservation committees; and establishing criteria and procedures for department allocation of funds to counties for use in the preparation of erosion control plans, and for distribution to landowners and land users under cost-sharing contracts. It describes the responsibilities of the department and land conservation committees for implementing soil erosion control projects; sets forth cost-sharing rates; and establishes conditions for the receipt of cost-sharing funds by landowners.

The rule also defines the responsibilities of the department for program evaluation, and requires the land conservation committees to solicit the comments and participation of landowners, other governmental agencies, and the general public in the development and administration of the soil erosion control program.

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3 Pursuant to the authority vested in the state of Wisconsin  
4 department of agriculture, trade and consumer protection by  
5 s. 92.05, Stats., the state of Wisconsin department of agriculture,  
6 trade and consumer protection hereby adopts rules interpreting  
7 s. 92.10, Stats., as follows:

8 SECTION 1. Chapter Ag 160 of the Wisconsin administrative  
9 code is created to read:

10 CHAPTER AG 160

11 SOIL EROSION CONTROL PROGRAM

12 Ag 160.01 EROSION CONTROL GOALS. The goal of the soil

1 erosion control program under s. 92.10, Stats. is to reduce soil  
2 erosion caused by wind or water on all cropland in Wisconsin to  
3 T-value by the year 2000. Interim goals are:

4 (1) To reduce average annual cropland soil erosion rates in  
5 each Wisconsin county to 1.5 times T-value by July 1, 1988, and to  
6 T-value by July 1, 1993;

7 (2) To reduce annual soil erosion rates on individual crop-  
8 land fields to a maximum of 3 times T-value by July 1, 1988, and  
9 to a maximum of 2 times T-value by July 1, 1995.

10 Ag 160.02 POLICIES. The following general policies shall  
11 govern the implementation of the erosion control program under  
12 s. 92.10, Stats., subject to the specific provisions of this  
13 chapter:

14 (1) Priority shall be given to areas of the state having the  
15 most severe soil erosion problems.

16 (2) The program shall promote the use of soil and water con-  
17 servation practices which are cost-effective in achieving soil  
18 erosion control objectives.

19 (3) The program shall be coordinated with related state and  
20 federal programs to the greatest practicable extent.

21 Ag 160.03 DEFINITIONS. In this chapter: (1) "Conservation  
22 tillage" means the preparation of land surfaces for the planting  
23 and culture of crop plants using methods that result in a rough  
24 land surface covered in varying degrees by vegetative residues of  
25 a previous crop, so as to provide a significant degree of resis-  
26 tance to soil erosion by raindrop impact, surface water runoff, or  
27 wind; or the planting of crop seeds in a narrow slot or a narrow

1 strip of tilled soil, so as not to disturb or roughen the entire  
2 soil surface. Conservation tillage includes no-till, chisel  
3 plowing, disking, and till-planting practices, and other similar  
4 practices.

5 (2) "Critical area stabilization" means the planting of  
6 suitable vegetation on highly erodible areas such as steep slopes,  
7 gullies, and roadsides, so as to reduce soil erosion.

8 (3) "Cropland" means land used for the growing and  
9 harvesting of grains, legumes, grasses, fruits or vegetables;  
10 including land used for such purposes that may occasionally be  
11 used for livestock pasture.

12 (4) "Department" means the Wisconsin department of agricul-  
13 ture, trade and consumer protection.

14 (5) "Diversions" means structures installed to divert excess  
15 surface runoff water to areas where it can be used, transported or  
16 discharged without causing excessive soil erosion. It includes  
17 systems which employ a channel with a supporting earthen ridge on  
18 the lower side, constructed across the slope with a self-  
19 discharging and non-erosive gradient.

20 (6) "Erosion control practices" means land management prac-  
21 tices, techniques or measures identified in s. Ag 160.12, or other  
22 approved practices used to control soil erosion.

23 (7) "Field windbreak" means a strip or belt of trees, shrubs  
24 or grasses established or restored within or adjacent to a field,  
25 so as to reduce wind velocities at the land surface and thereby  
26 reduce soil erosion.

27 (8) "Grade stabilization structures" means structures used

1 to stabilize the grade in a channel, so as to protect the channel  
2 from erosion or to prevent the formation or advance of gullies.

3 (9) "Land conservation committee" means the committee created  
4 by a county board under s. 92.06, Stats.

5 (10) "Landowner" means any person as defined in s. 92.03(4),  
6 Stats.

7 (11) "Land user" means any person as defined in s. 92.03(5),  
8 Stats.

9 (12) "Soil erosion control plan" means a plan developed under  
10 s. 92.10, Stats., by a land conservation committee with the assis-  
11 tance of the department.

12 (13) "Stripcropping" means the growing of crops in a system-  
13 atic strip arrangement, with strips of grass, legumes or other  
14 close growing crops being alternated with strips of clean tilled  
15 crops or fallow, all of which are established on the contour, or  
16 across a slope, so as to reduce water or wind erosion.

17 (14) "Technical guide" means the Wisconsin edition of the  
18 United States department of agriculture soil conservation service  
19 technical guide effective on September 1, 1983.

20 NOTE: Copies of the technical guide may be inspected at the  
21 central offices of the department, the secretary of state and the  
22 revisor of statutes. Copies of the technical guide may be obtained  
23 at the central offices of the department.

24 (15) "Terrace system" means a system of ridges and channels  
25 constructed across a slope on a non-erosive grade at a suitable  
26 spacing.

27 (16) "T-value" means the maximum average annual rate of soil

1 erosion for each soil type that will permit a high level of crop pro-  
2 ductivity to be sustained economically and indefinitely.

3 NOTE: T-values of soils are specified in sections I and II of the  
4 technical guide.

5 (17) "Universal soil loss equation" means the mathematical formu-  
6 la for estimating or predicting average annual soil erosion rates due  
7 to sheet and rill erosion caused by rainstorms on specified land areas,  
8 as described in section I of the technical guide.

9 (18) "Waterways" means natural or constructed watercourses or  
10 outlets which are shaped, graded, and covered with a suitable vegeta-  
11 tive cover, or other stabilized surface as needed, to prevent erosion  
12 by runoff waters.

13 (19) "Wind erosion equation" means the mathematical formula for  
14 estimating or predicting average annual soil erosion rates due to wind  
15 erosion, as described in section I of the technical guide.

16 Ag 160.04 SOIL EROSION CONTROL PLANS; GENERAL REQUIREMENT. Every  
17 land conservation committee shall prepare a soil erosion control plan  
18 which conforms to the requirements of s. 92.10(5), Stats. and this  
19 chapter. Soil erosion control plans shall be completed and submitted  
20 for department review within the time period specified under  
21 s. Ag 160.07. The department may not allocate funds under s. 92.14,  
22 Stats. to any county which has failed to meet its deadline under s.  
23 Ag 160.07 until the county's soil erosion control plan has been  
24 approved by the department under s. Ag 160.07.

25 Ag 160.05 SOIL EROSION CONTROL PLANS; CONTENTS. (1) PRELIMINARY  
26 DESCRIPTION; LAND INVENTORY AND RATES OF EROSION. To provide a factual  
27 basis for the information required under s. 92.10(5),

1 Stats. and this section, every soil erosion control plan shall  
2 include a land inventory and current estimate of soil erosion rates  
3 within the county. The land inventory and estimate of soil erosion  
4 rates shall conform to the requirements of this subsection.

5 (a) Land inventory. 1. Every soil erosion control plan shall  
6 contain a general inventory of land within the county falling into  
7 each of the following land use categories:

8 a. Cropland.

9 b. Land developed or undergoing development for industrial,  
10 commercial, residential, and other nonagricultural purposes.

11 c. Public highways and other transportation rights-of-way.

12 d. Forests and woodlots.

13 e. Streams and lakes, including streambanks, lakeshores, and  
14 wetlands.

15 f. Barnyards and feedlots.

16 g. Other categories considered appropriate by the land con-  
17 servation committee.

18 2. The land inventory shall indicate the approximate area and  
19 distribution of land falling into each category, and be illustrated  
20 by reference to maps or other illustrations.

21 3. With respect to cropland, the land inventory shall  
22 include a description of:

23 a. Major soil types and their geographical distribution.

24 b. Surface topography, and the geographical distribution of  
25 major topographical features or characteristics.

26 c. Watershed areas, including their geographical boundaries.

27 (b) Current estimates of soil erosion. 1. Every soil erosion

1 control plan shall include current estimates of soil erosion caused  
2 by wind and water within the county. Estimates, expressed as average  
3 annual rates of soil erosion, shall be included for the county as a  
4 whole and for each of the land use categories under par. (a). Within  
5 each land use category, other than cropland, localized areas having  
6 especially high soil erosion rates shall be briefly identified and  
7 described.

8 2. With respect to cropland, soil erosion estimates shall be  
9 separately calculated for each watershed or other appropriate crop-  
10 land area identified by the land conservation committee. If the  
11 cropland areas identified by the committee do not correspond to  
12 watersheds, the soil erosion control plan shall identify the basis on  
13 which the cropland areas are defined.

14 3. To estimate current rates of soil erosion, the land conser-  
15 vation committee shall use the universal soil loss equation, the wind  
16 erosion equation, or other estimating methods approved by the depart-  
17 ment.

18 (2) MAXIMUM ACCEPTABLE RATES OF SOIL EROSION; CROPLAND.

19 (a) Every soil erosion control plan shall establish maximum accept-  
20 able rates of cropland erosion in the county. A maximum acceptable  
21 rate of cropland erosion shall be established for county cropland as  
22 a whole, and for each watershed or cropland area identified by the  
23 land conservation committee.

24 (b) In addition to the maximum acceptable rates established  
25 under par. (a), the soil erosion control plan shall establish a maxi-  
26 mum acceptable rate of cropland erosion applicable to individual par-  
27 cels of cropland within the county. The maximum acceptable rate for

1 individual parcels may be established on a county-wide basis, or  
2 separate rates may be established for individual watersheds or  
3 cropland areas identified by the land conservation committee.

4 (c) Maximum acceptable rates of soil erosion shall be  
5 expressed in terms of T-value, or multiples or fractions of T-  
6 value.

7 (d) Maximum acceptable rates of soil erosion shall be estab-  
8 lished as goals for the short-term and long-term future, using such  
9 time intervals as the land conservation committee may consider  
10 appropriate. Maximum acceptable rates shall, at a minimum, meet  
11 the statewide goals set forth in s. Ag 160.01.

12 (3) EROSION IN EXCESS OF MAXIMUM ACCEPTABLE RATES. Based on  
13 information set forth in subs. (1) and (2), the soil erosion con-  
14 trol plan shall identify those watersheds or cropland areas in  
15 which the current rate of cropland erosion exceeds the maximum  
16 acceptable rate for the watershed or cropland area. To the extent  
17 practicable, the plan shall also identify localized areas within  
18 each watershed or cropland area where cropland erosion is occurring  
19 at an excessive rate or causing degradation of water quality,  
20 whether or not the overall rate of erosion for the watershed or  
21 cropland area exceeds the maximum acceptable rate.

22 (4) PRIORITY AREAS FOR EROSION CONTROL. (a) Areas identi-  
23 fied in response to sub. (3) shall be ranked in the soil erosion  
24 control plan according to their relative order of priority for ero-  
25 sion control. Priorities shall be based on the amount of erosion;  
26 the extent to which erosion rates exceed the maximum acceptable  
27 rate; the value of the productive capacity which may be lost as a

1 result of the erosion; the extent to which the erosion is preven-  
2 table; the relative cost of erosion prevention; the off-site dam-  
3 ages caused by the erosion, including water quality degradation;  
4 and other factors considered relevant by the land conservation  
5 committee. The factors considered by the committee in establishing  
6 its priorities shall be set forth in the soil erosion control  
7 plan.

8 (b) For watersheds or other cropland areas determined by the  
9 land conservation committee to be of highest priority, the soil  
10 erosion control plan shall include detailed estimates of cropland  
11 erosion rates. Estimates shall be sufficiently detailed to permit  
12 the identification of individual parcels of cropland which are in  
13 need of erosion control practices.

14 (5) PROPOSED EROSION CONTROL ACTIVITIES. For each priority  
15 area identified in response to sub. (4), the soil erosion control  
16 plan shall identify and evaluate proposed erosion control activ-  
17 ities to be used in reducing soil erosion to acceptable rates. The  
18 plan shall describe:

19 (a) Specific erosion control practices and land use changes  
20 which are recommended for implementation by landowners and land  
21 users in each priority area. Recommended erosion control practices  
22 and land use changes shall be described in the greatest detail  
23 practicable, with reference, where possible, to specific farms and  
24 fields. The description shall include a general discussion of the  
25 projected benefits and costs of the recommended measures and any  
26 alternative measures. Recommendations shall emphasize erosion con-  
27 trol practices and land-use changes which are likely to be cost-

1 effective in achieving erosion control. Recommendations shall  
2 include general recommendations to landowners and land users, as  
3 well as specific recommendations for projects to be implemented by  
4 the land conservation committee.

5 (b) Alternative programs and policies available to the county  
6 to implement the erosion control projects recommended in response to  
7 par. (a). Programs and policies may include cost-sharing contracts  
8 with landowners and land users, information and education programs,  
9 technical assistance, regulation of land use and management prac-  
10 tices, or other programs or policies identified by the land conser-  
11 vation committee. Alternative programs and policies shall be  
12 described in the greatest detail practicable, with reference to the  
13 specific projects under par. (a) which the committee expects to  
14 implement by means of the program or policy. The relative benefits  
15 and costs of the alternative programs and policies shall be identi-  
16 fied and compared.

17 (c) The specific projects, programs and policies which the  
18 land conservation committee intends to implement, based on the com-  
19 mittee's recommendations and evaluation under pars. (a) and (b).

20 (d) The specific costs of the chosen projects, programs and  
21 policies, and the staff services needed to implement them.

22 (e) The proposed methods by which the chosen projects, pro-  
23 grams and policies will be funded.

24 (f) The persons and agencies, including the land conserva-  
25 tion committee, who are responsible for implementing the chosen  
26 projects, programs and policies and the project tasks for which each  
27 person or agency is responsible.

1 (g) A method by which the land conservation committee will  
2 evaluate the effectiveness of county soil erosion control pro-  
3 jects.

4 Ag 160.06 SOIL EROSION CONTROL PLANS; PUBLIC AND AGENCY  
5 PARTICIPATION. (1) Before preparing a soil erosion control plan,  
6 every land conservation committee shall:

7 (a) Hold at least one public informational meeting to inform  
8 the public about the purpose of the plan, and describe the proce-  
9 dures which the land conservation committee will use to prepare the  
10 plan. The public informational meeting shall be preceded by public  
11 notice.

12 (b) Invite the following agencies to participate in the pre-  
13 paration of the soil erosion control plan:

14 1. The soil conservation service of the United States depart-  
15 ment of agriculture;

16 2. The agricultural stabilization and conservation service of  
17 the United States department of agriculture;

18 3. The Wisconsin department of natural resources;

19 4. The farmers home administration of the United States  
20 department of agriculture;

21 5. The cooperative extension service of the university of  
22 Wisconsin;

23 6. Agencies with representatives designated to serve as  
24 advisors to the land conservation committee under s. 92.06(2),  
25 Stats.

26 7. Regional planning commissions;

27 8. Others considered appropriate by the land conservation

1 committee.

2 (2) During the preparation of a soil erosion control plan,  
3 every land conservation committee shall hold at least one public  
4 meeting in each town in which the land conservation committee sus-  
5 pects that significant cropland erosion problems may exist. By  
6 public notice, and by other means considered appropriate by the  
7 land conservation committee, the committee shall invite town  
8 officials, landowners, land users and other interested or affected  
9 persons to attend the meetings. At each meeting, interested per-  
10 sons shall be given an opportunity to discuss the purpose of the  
11 plan and advise the land conservation committee regarding the  
12 collection of accurate information for the plan.

13 (3) After the land conservation committee has determined the  
14 priority areas for erosion control under s. Ag 160.05(4), the land  
15 conservation committee shall give written notice to landowners and  
16 land users in each priority area. Notice shall include:

17 (a) The average estimated cropland erosion rate for the  
18 priority area.

19 (b) The estimated cropland erosion rate for the landowner's  
20 or land user's individual parcel, if known.

21 (c) Recommended practices which may be adopted by landowners  
22 or land users to reduce soil erosion.

23 (d) An invitation to the landowner or land user to present  
24 information concerning the accuracy of the soil erosion rates  
25 estimated by the land conservation committee.

26 (e) A request that the landowner or land user inform the land  
27 conservation committee of his or her willingness or unwillingness

1 to adopt the recommended erosion control practices. The notice  
2 shall further request the landowner or land user to state the rea-  
3 sons why he or she is unwilling to adopt the recommended practices,  
4 if such is the case.

5 (f) Other information considered appropriate by the land  
6 conservation committee.

7 (4) After a proposed soil erosion control plan has been pre-  
8 pared in writing, but before it is submitted to the department for  
9 approval, the land conservation committee shall hold at least one  
10 public hearing on the proposed plan. The public hearing shall be  
11 preceded by public notice.

12 (5) Every land conservation committee shall document its com-  
13 pliance with this section. The proposed soil erosion control plan  
14 submitted to the department for review and approval under  
15 s. Ag 160.07 shall include a description of the methods and pro-  
16 cedures used by the land conservation committee to comply with this  
17 section.

18 Ag 160.07 SOIL EROSION CONTROL PLANS; COMPLETION DEADLINES;  
19 REVIEW AND APPROVAL. (1) The deadline for the completion of a  
20 soil erosion control plan by a county land conservation committee  
21 shall be based on a preliminary estimate of the average cropland  
22 erosion rate in the county, as determined by the department. The  
23 department shall notify the land conservation committee in each  
24 county of the completion deadline for that county. Completion  
25 deadlines are as follows:

26 (a) For each county having an average annual cropland erosion  
27 rate of 8 or more tons per acre per year, a soil erosion control

1 plan shall be completed by April 1, 1985.

2 (b) For each county having an average annual cropland erosion  
3 rate of 5 or more tons per acre per year, but less than 8 tons per  
4 acre per year, a soil erosion control plan shall be completed by  
5 April 1, 1986.

6 (c) For each county having an average annual cropland erosion  
7 rate of less than 5 tons per acre per year, a soil erosion control  
8 plan shall be completed by April 1, 1987.

9 (2) The department may extend the deadlines under sub. (1) if  
10 state funding is not available to assist in preparing the soil ero-  
11 sion control plan.

12 (3) Soil erosion control plans shall be submitted to the land  
13 conservation board and the department for review. The department  
14 shall obtain the recommendations of the land conservation board on  
15 every proposed plan, as provided under s. 92.10(4), Stats. Upon  
16 receipt of land conservation board recommendations, the department  
17 shall approve or disapprove in writing the proposed plan. The  
18 department shall disapprove a proposed plan if the plan fails to  
19 comply with the requirements of this chapter. If a proposed soil  
20 erosion control plan is disapproved, the department shall provide a  
21 written explanation of the reasons for disapproval.

22 Ag 160.08 FUNDS FOR THE PREPARATION OF SOIL EROSION

23 CONTROL PLANS. (1) The department may allocate funds to land con-  
24 servation committees for the preparation of soil erosion control  
25 plans, as provided in s. 92.10(3)(b), Stats. Funds shall be allo-  
26 cated under an annual allocation plan prepared by the department,  
27 with recommendations from the land conservation board. The allo-

1 cation plan shall incorporate the proposed contracts under which the  
2 funds are to be allocated by the department to land conservation  
3 committees.

4 (2) No funds for the preparation of soil erosion control plans  
5 may be allocated or released by the department except under a con-  
6 tract with a land conservation committee. Contracts shall set forth  
7 the terms and conditions under which funds are to be allocated to  
8 the committee. No contract shall become final until an allocation  
9 plan has been prepared under sub. (1).

10 (3) In its annual allocation plan the department shall give  
11 first priority to counties which have the highest average annual  
12 cropland erosion rates. The department shall also consider the  
13 agricultural value of the county's cropland, and the willingness and  
14 ability of the county land conservation committee to prepare a soil  
15 erosion control plan.

16 Ag 160.09 FUNDS FOR SOIL EROSION CONTROL. (1) ALLOCATION  
17 PROCEDURE; GENERAL. The department shall allocate funds to land  
18 conservation committees for the implementation of erosion control  
19 plans, as provided in s. 92.10(3)(d), Stats. Funds shall be allo-  
20 cated according to an annual allocation plan under sub. (2). Funds  
21 may be allocated for some or all of the projects proposed under a  
22 soil erosion control plan, but the amount of the allocation may not  
23 exceed 75 percent of the overall cost of projects included in the  
24 soil erosion control plan. The department may not allocate funds to  
25 a land conservation committee for soil erosion control unless the  
26 county soil erosion control plan has been approved by the depart-  
27 ment.

1           (2) ALLOCATION PLAN. The department shall prepare an annual  
2 written plan for the allocation of soil erosion control funds to  
3 land conservation committees. The plan shall include all proposed  
4 allocations of cost-sharing funds, and copies of all proposed  
5 funding contracts with land conservation committees under sub. (5).  
6 The department shall obtain the recommendations of the land conser-  
7 vation board on the proposed allocation plan. No erosion control  
8 funds may be committed or released to a land conservation committee  
9 except under an allocation plan prepared by the department.

10           (3) FUNDING PRIORITIES. Project funding priorities under the  
11 annual allocation plan shall be determined according to:

12           (a) The severity of cropland erosion in the proposed project  
13 area. The severity of cropland erosion depends on the degree to  
14 which cropland erosion rates exceed T-value, and on the number and  
15 agricultural value of cropland acres affected.

16           (b) The likelihood that the project will succeed in reducing  
17 soil erosion to T-value in the affected area, as evidenced by land-  
18 owner interest and participation.

19           (c) The probable cost-effectiveness of the proposed project  
20 in reducing soil erosion. Cost-effectiveness shall be determined  
21 by calculating the combined total cost of the project to land-  
22 owners, land users and the public, and by comparing that cost with  
23 the predicted reduction in soil erosion which will result from com-  
24 pletion of the proposed project.

25           (d) The demonstrated ability of the land conservation com-  
26 mittee to implement the proposed project.

27           (e) The degree to which the project complements, and is coor-

1 dinated with the farmland preservation program created under  
2 ch. 91, Stats.; the nonpoint source water pollution abatement pro-  
3 gram created under s. 144.25, Stats.; the public inland lake pro-  
4 tection and rehabilitation program created under ch. 33, Stats.;  
5 the agricultural conservation program administered by the agricul-  
6 tural stabilization and conservation service of the United States  
7 department of agriculture; and target area programs administered by  
8 the soil conservation service of the United States department of  
9 agriculture.

10 (f) Projected water quality benefits of the project.

11 (g) The willingness of the county to commit existing educa-  
12 tional, technical and administrative staff resources to the pro-  
13 ject.

14 (4) PROJECT COSTS WHICH MAY BE FUNDED. Funds may be allo-  
15 cated to a land conservation committee under this section to  
16 finance:

17 (a) Education and information programs directed primarily  
18 toward landowners and land users.

19 (b) Technical assistance to landowners and land users.

20 (c) Cost sharing contracts with landowners and land users for  
21 the implementation of soil erosion control practices or land use  
22 changes.

23 (d) Essential costs incurred for the administration of a soil  
24 erosion control project or plan.

25 (5) FUNDING CONTRACTS WITH LAND CONSERVATION COMMITTEES.

26 (a) The department may not allocate or release soil erosion  
27 control funds to a land conservation committee except under a

1 written contract with the land conservation committee. A copy of  
2 each proposed contract shall be included with the department's  
3 funding allocation plan under sub. (2). No funding contract  
4 between the department and a land conservation committee shall be-  
5 come final until the department's allocation plan has been adopted  
6 and has received all requisite approvals under applicable law.

7 (b) Every contract for the allocation of soil erosion  
8 control funds to a land conservation committee shall set forth:

9 1. The projects and purposes for which the funds are alloca-  
10 ted, and all terms and conditions for the receipt of funds by the  
11 land conservation committee.

12 2. The amount of funds allocated to the land conservation  
13 committee under the contract, including the amount allocated for  
14 each component project.

15 3. The responsibilities of the department, the land conser-  
16 vation committee, and other agencies for the implementation of the  
17 contract.

18 4. Implementation deadlines for each project.

19 5. A provision whereby funding may be withheld or terminated  
20 by the department if the terms and conditions of the contract are  
21 not met.

22 Ag 160.10 LANDOWNER ASSISTANCE AGREEMENTS. (1) Every land  
23 conservation committee shall enter into a landowner assistance  
24 agreement with every landowner to whom the committee provides cost-  
25 sharing funds or technical assistance to implement erosion control  
26 practices. The landowner assistance agreement shall include:

27 (a) The name and address of the landowner or land user

1 applying for cost-sharing funds or technical assistance. If the  
2 applicant is a land user other than the landowner, the agreement  
3 shall include the name of the landowner and be signed by the  
4 landowner.

5 (b) The specific erosion control practices to be  
6 implemented.

7 (c) The estimated costs of implementing the erosion control  
8 practices, and the percentage of the cost to be paid by the land  
9 conservation committee under any cost-sharing agreement.

10 (d) Time deadlines for implementing the erosion control  
11 practices.

12 (e) A method for certifying that the erosion control prac-  
13 tices have been implemented and maintained.

14 (f) Provisions by which the recipient of cost-sharing funds  
15 agrees to:

16 1. Maintain the funded erosion control practice for its nor-  
17 mal expected life or replace it with an equally effective soil ero-  
18 sion control practice. If the recipient fails to maintain or  
19 replace the erosion control practice, the agreement shall require  
20 the recipient to repay to the land conservation committee all cost-  
21 sharing funds

22 2. Undertake land management practices in substantial com-  
23 pliance with a soil conservation plan developed in cooperation with  
24 the landowner or land user and adopted by the land conservation  
25 committee. If the recipient fails to maintain compliance with the  
26 land conservation plan, the agreement shall require the recipient

27

1 to repay to the land conservation committee all cost-sharing funds  
2 received under the landowner assistance agreement.

3 3. Repay to the land conservation committee all cost-sharing  
4 funds received under the landowner assistance agreement if title to  
5 the land is transferred, unless the subsequent landowner or land  
6 user agrees to comply with the requirements of a conservation plan  
7 approved by the land conservation committee.

8 (g) A provision requiring the recipient of cost-sharing funds  
9 to comply with the conditions specified in s. Ag 160.12, or other  
10 conditions specified by the land conservation committee.

11 (h) A procedure by which the landowner assistance agreement  
12 may be amended.

13 (2) The land conservation committee shall use any cost-  
14 sharing funds repaid to the land conservation committee under  
15 sub. (1)(f) to fund other erosion control practices which are part  
16 of a soil erosion control project approved by the department. If  
17 there are no approved soil erosion control projects under way in  
18 the county at the time the cost-sharing funds are repaid, the land  
19 conservation committee may use the repaid funds to fund other pro-  
20 posed cost-sharing projects, contingent upon department approval.

21 (3) The land conservation committee may include more restric-  
22 tive conditions in a landowner assistance agreement than those  
23 required under this section, as authorized by s. 92.07(13), Stats.  
24 or other applicable law.

25 Ag 160.11 COST-SHARING FUNDS; ALLOCATION CRITERIA AND  
26 PROCEDURES. (1) Cost-sharing funds allocated to a land conserva-  
27 tion committee under s. Ag 160.09 shall be distributed to land

1 owners and land users in compliance with landowner assistance agree-  
2 ments and the contract between the department and the land conserva-  
3 tion committee. Cost-sharing funds may not be distributed to a  
4 landowner or land user except under a landowner assistance agree-  
5 ment, entered into in compliance with s. Ag 160.10.

6 (2) Cost-sharing funds may be allocated by the department  
7 only for erosion control practices which are:

8 (a) Identified under s. Ag 160.12, except that other erosion  
9 control practices may qualify for cost-sharing funds if they are  
10 specifically described and approved by the land conservation commit-  
11 tee and the department as part of a funding contract under  
12 s. Ag 160.09(5).

13 (b) Implemented on land parcels whose average annual rate of  
14 soil erosion exceeds the maximum acceptable rate for the watershed  
15 or cropland area of which the parcel is a part.

16 (c) In compliance with relevant standards, specifications, and  
17 design criteria set forth in the technical guide. Other erosion  
18 control practices may qualify for cost-share funding if they provide  
19 equivalent levels of erosion control, and are specifically described  
20 and approved by the land conservation committee and the department  
21 as part of a funding contract under s. Ag 160.09(5).

22 (3) Cost-sharing funds allocated to a land conservation com-  
23 mittee under s. Ag 160.09 may not be released by the committee until  
24 the committee has determined that the erosion control practices have  
25 been completed by the landowner or land user in compliance with the  
26 landowner assistance agreement under s. Ag 160.10.

27 (4) Cost-share payments under a landowner assistance agreement

1 may not exceed 75 percent of the actual cost incurred by the land-  
2 owner or land user to implement an erosion control practice under  
3 the agreement. Cost-sharing funds allocated under s. Ag 160.09 may  
4 be supplemented with cost-sharing funds from other sources, provided  
5 that the total amount of cost-share payments to the landowner or  
6 land user does not exceed 75 percent of the actual cost incurred by  
7 the landowner or land user to implement the erosion control prac-  
8 tice.

9 Ag 160.12 EROSION CONTROL PRACTICES; CONDITIONS FOR THE  
10 RECEIPT OF COST-SHARING FUNDS OR TECHNICAL ASSISTANCE. In order to  
11 qualify for cost-sharing funds or technical assistance, erosion con-  
12 trol practices identified in this section shall comply with the  
13 requirements of this section. Cost-sharing funds for the erosion  
14 control practices identified in this section may be used only for  
15 the purposes provided in this section.

16 (1) STRIPCROPPING. (a) Cost-sharing funds for stripcrop-  
17 ping practices may be used only to establish the stripcropping  
18 system, and, if necessary, to remove obstacles or install sub-  
19 surface drains.

20 (b) Stripcropping practices shall conform to the following  
21 requirements:

22 1. All cultural operations shall be performed as nearly as  
23 practicable on the contour.

24 2. To the extent practicable, on acreage devoted to row  
25 crops:

26 a. A crop stubble or residue shall be left on the surface  
27 over the winter; or

1           b. A winter cover crop shall be established; or

2           c. Protective tillage operations shall be performed.

3           3. The stripcropping system shall be maintained for a mini-  
4 mum of 10 years.

5           4. The stripcropping system shall be established in compli-  
6 ance with technical guide specifications 500, 585, 589 and 606.

7           (2) DIVERSIONS. (a) Cost-sharing funds for diversion  
8 projects may be used only for:

9           1. Diversions, outlets, dikes or subsurface drains. Cost-  
10 sharing funds may be used for subsurface drains only if the sub-  
11 surface drains are installed on sloping land where subsurface  
12 water seeps to the surface and causes the land, or land cover, to  
13 lose its stability.

14          2. The installation of structures such as pipes, underground  
15 outlets, or other outlets needed to assure proper transport and  
16 disposal of water to a ditch or dike, to promote a more even flow  
17 of water, or to protect outlets from erosion.

18          3. Leveling and filling operations needed for the installa-  
19 tion of an effective diversion system.

20          4. The removal of obstructions, as necessary for the instal-  
21 lation of an effective diversion system.

22          (b) Cost-sharing funds may not be used to install ditches or  
23 dikes which are designed to impound water for later use, or which  
24 will be a part of a regular irrigation system.

25          (c) Diversion projects shall:

26           1. Include an adequate outlet.

27           2. Be maintained for a minimum of 15 years.

1           3. Be installed in compliance with technical guide specifi-  
2 cations 342, 356, 362, 412, 500, 606, 607, and 620.

3           (3) TERRACE SYSTEMS. (a) Cost-sharing funds for terrace  
4 systems may be used only for:

5           1. The construction of terraces.

6           2. Leveling and filling operations needed for the installa-  
7 tion of an effective terrace system.

8           3. The removal of obstructions, as necessary for the  
9 installation of an effective terrace system.

10          4. Underground pipe outlets and other mechanical outlets  
11 needed for an effective terrace system, including materials and  
12 installation.

13          5. The conversion of an existing terrace system to a new  
14 system if the existing system is not serving its intended erosion  
15 control purpose.

16          (b) Cost-sharing funds may not be used to convert an old  
17 terrace system to a new terrace system if the sole purpose of the  
18 conversion is to accommodate changes in cropping patterns or  
19 equipment used by the farmer.

20          (c) Terrace systems shall:

21          1. Include a stable outlet or waterway of adequate capacity.

22          2. Be maintained for a minimum of 25 years.

23          3. Be installed in compliance with technical guide specifi-  
24 cations 412, 500, 600, 606 and 620.

25          (4) WATERWAYS. (a) Cost-sharing funds for waterways may be  
26 used only for site preparation; grading; shaping; filling; estab-  
27 lishing permanent vegetative cover; and, if necessary for proper

1 functioning of the waterway, installing subsurface drains and  
2 machinery crossings.

3 (b) Waterway systems shall be:

4 1. Covered by a permanent vegetative cover consisting of  
5 sod-forming grasses, mixtures of grasses, or other vegetative cover  
6 which will provide adequate protection from erosion. Close-sown  
7 small grains, annual grasses or mulches may be used for temporary  
8 protection if followed by an appropriate permanent vegetative  
9 cover.

10 2. Maintained for a minimum of 15 years.

11 3. Installed in compliance with technical guide specifica-  
12 tions 342, 412, 468, 484, and 606.

13 (5) CRITICAL AREA STABILIZATION. (a) Cost-sharing funds  
14 for critical area stabilization shall be used only for:

15 1. Permanent fencing to protect the critical area.

16 2. The planting of trees, shrubs, or perennial grass cover.

17 3. Shaping and smoothing operations performed prior to the  
18 installation of protective structures or plantings.

19 (b) Critical area stabilization projects shall be:

20 1. Maintained for a minimum of 25 years.

21 2. Established in compliance with technical guide specifica-  
22 tions 342, 472, 484, and 612.

23 (6) GRADE STABILIZATION STRUCTURES. (a) Cost-sharing funds  
24 for grade stabilization structures may be used only for:

25 1. Channel linings, chutes, drop spillways, and pipe drops  
26 to discharge excess water.

27 2. Fencing.

1           3. Vegetative cover, including mulching needed to protect  
2 the structure.

3           4. Leveling and filling operations needed to install the  
4 structure.

5           (b) Grade stabilization structures shall be:

6           1. Maintained for a minimum of 25 years.

7           2. Installed in compliance with technical guide specifica-  
8 tions 350, 356, 382, 402, 410, and 468.

9           (7) CONSERVATION TILLAGE. (a) Cost-sharing funds may be  
10 allocated to a landowner or land user to finance conservation  
11 tillage operations for up to 3 consecutive years. In determining  
12 the amount to be allocated, the land conservation committee shall  
13 apply the cost-share percentage rate to the prevailing price which  
14 would be charged for the performance of the conservation tillage  
15 operations on a custom basis.

16           (b) Cost-sharing funds may not be allocated to a landowner or  
17 land user who is already using a satisfactory conservation  
18 tillage system.

19           (c) Conservation tillage projects shall conform to the  
20 following requirements:

21           1. Land subject to conservation tillage shall be protected  
22 from erosion from the time of harvest until after the next plant-  
23 ing. Protection may be provided by a cover crop residue or temp-  
24 orary cover, or by the application of other approved management  
25 methods designed to protect against erosion.

26           2. On moderately or steeply sloping land all tillage oper-  
27 ations shall be performed as nearly as practicable on the contour,

1 or parallel to terraces.

2 3. The conservation tillage system shall be maintained for a  
3 minimum of five years, or the land shall be protected by close-  
4 growing crops such as grasses or legumes.

5 4. Conservation tillage shall be performed in compliance  
6 with technical guide specification 329.

7 (8) FIELD WINDBREAKS; ESTABLISHMENT OR RESTORATION.

8 (a) Cost-sharing funds for the establishment or restoration of a  
9 field windbreak shall be used only for the planting of trees,  
10 shrubs or grasses, as necessary for the control of soil erosion.

11 (b) Field windbreaks shall be:

12 1. Protected from destructive grazing.

13 2. Maintained for a minimum of 25 years.

14 3. Established or restored in compliance with technical  
15 guide specifications 382, 392, and 472.

16 Ag 160.13 RESPONSIBILITIES OF THE LAND CONSERVATION

17 COMMITTEE. (1) The land conservation committee is responsible  
18 for local administration of the county soil erosion control plan,  
19 as provided in s. 92.10(5)(f), Stats. Responsibilities include:

20 (a) Local approval of projects and expenditures under the  
21 plan, subject to any required approval by the department under this  
22 chapter.

23 (b) Fiscal accounting and management.

24 (c) Record keeping.

25 (d) Coordination of soil erosion control plans, project  
26 approvals and expenditures with local, state and federal cost-  
27 sharing programs.

1 (e) Technical assistance, including:

2 1. Preparation of landowner assistance agreements as pro-  
3 vided under s. Ag 160.10.

4 2. Design and layout of erosion control practices included  
5 in landowner assistance agreements.

6 (2) The land conservation committee shall establish and  
7 maintain a complete accounting and record keeping system which  
8 shall include:

9 (a) Separate accounts of all funds allocated to the commit-  
10 tee by the department under ss. Ag 160.08 and Ag 160.09, including  
11 a record of all receipts and expenditures, and the current account  
12 balance.

13 (b) Complete accounting records showing all receipts by the  
14 land conservation committee, from whatever source; all expendi-  
15 tures made or committed by the committee; and all account  
16 balances.

17 (c) A complete file prepared for each landowner assistance  
18 agreement under which funds are paid or committed to a landowner  
19 or land user. The file shall include:

20 1. The application by the landowner or land user for cost-  
21 sharing funds or technical assistance.

22 2. Approval of the landowner assistance agreement by the  
23 land conservation committee. A record of approval shall be filed  
24 before the agreement is signed.

25 3. The original copy of the landowner assistance agreement,  
26 signed by the parties.

27 4. A record of technical referral, and certification by a

1 qualified technician.

2 5. A request by the landowner or land user for payment,  
3 filed prior to payment.

4 6. Certification that the erosion control practice has been  
5 completed according to the landowner assistance agreement. Cert-  
6 ification shall be filed prior to payment.

7 7. Authorization by the land conservation committee for the  
8 release of cost-sharing or technical assistance payments. A record  
9 of the authorization shall be filed prior to payment.

10 (3) The land conservation committee shall submit an annual  
11 accounting to the department by June 30 of each year, and a final  
12 accounting of project expenditures to the department within 60 days  
13 after each project completion date.

14 (4) The land conservation committee may contract for the per-  
15 formance of specified administrative and accounting tasks, subject  
16 to oversight and approval by the land conservation committee.

17 Ag 160.14 RECORDS AND AUDITS. (1) The land conservation  
18 committee shall maintain project records and documents for 5 years  
19 after project completion, or for the duration of the maintenance  
20 period required for the erosion control practice under  
21 s. Ag 160.12, whichever is longer.

22 (2) The department may conduct such financial and program  
23 audits as it deems necessary, including interim and final audits on  
24 funded plans or projects. Audits may include a physical inspection  
25 of erosion control projects and practices implemented with state  
26 erosion control funds, as necessary to determine consistency with  
27 program goals and standards.

1        Ag 160.15 PROGRAM EVALUATION. (1) The department shall  
2 prepare an annual report which shall include:

3        (a) A summary of the status of soil erosion control plans  
4 and soil erosion control projects.

5        (b) A detailed description of:

6            1. Reductions in soil erosion achieved or anticipated under  
7 the erosion control program;

8            2. The costs, or anticipated costs, of achieving the  
9 described reductions in soil erosion;

10           3. The methods used to coordinate the erosion control  
11 program with related state and federal programs;

12           4. The accomplishments of the erosion control program,  
13 including the number of landowner assistance agreements entered  
14 into, the number and type of erosion control practices installed,  
15 the number of acres adequately protected.

16           5. The amount of funds committed for erosion control prac-  
17 tices remaining to be installed, and the number and type of prac-  
18 tices to be installed.

19           6. Deficiencies in the program and the changes needed to  
20 correct these deficiencies.

21        (2) The report prepared under this section may be used to  
22 fulfill the biennial reporting requirements under s. 92.10(3)(e),  
23 Stats.

24        Ag 160.16 AUTHORITY. This chapter is adopted under authority  
25 of s. 92.05, Stats.

26

27

1 SECTION 2. The rules contained in this order shall take  
2 effect on the first day of the month following their publication,  
3 as provided in s. 227.026(1)(intro.), Stats.

4 Dated this 5th day of January, 1984.

5

6

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

7

8

By K. P. Robert  
K. P. Robert, Administrator  
Agricultural Resource Management  
Division

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