

CR 85-185

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 amending rules relating to the state soil erosion control program, Chapter Ag 160, Wis. Adm. Code, was duly approved and adopted by the Department on June 9, 1986.

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 9th day of June, 1986.

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

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8-1-86

1 ORDER OF THE

2 STATE OF WISCONSIN

3 DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

4 ADOPTING, AMENDING OR REPEALING RULES

5 To repeal Ag 160.05(1)(a)1.f, and Ag 160.15(2); to renumber  
6 Ag 160.03(12), (13), and (15) through (19), Ag 160.05(1)(a)1.g, Ag  
7 160.15(1)(intro.) and (a), and Ag 160.15(1)(b)(intro.) and (1)  
8 through (6); to renumber and amend Ag 160.03(14); to amend Ag  
9 160.04, Ag 160.05(1)(intro.), Ag 160.05(1)(b)1., Ag 160.07(1)(a)  
10 through (c) and (2), Ag 160.08(2), Ag 160.09(1), Ag 160.09(2), Ag  
11 160.09(3)(e), Ag 160.09(5)(a) and Ag 160.11(4); to repeal and  
12 recreate Ag 160.01; and to create Ag 160.03(12), and Ag 160.12(9)  
13 and (10); relating to the state soil erosion control program.

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Analysis Prepared by the Department  
of Agriculture, Trade and Consumer Protection

This rule will amend Ch. Ag 160, Wis. Adm. Code (Soil Erosion Control Program), relating to the administration of the state soil erosion control program created under Ch. 92, Stats. The amendments bring the rules into conformity with the changes made to Ch. 92, Stats. by 1985 Wisconsin Act 29.

Under the rule amendments, the goals of the state soil erosion control program are brought into conformity with the statutory goals under s. 92.025, Stats., as created by 1985 Wisconsin Act 29. The goals include an ultimate statewide goal for all individual cropland fields by the year 2000, and interim goals for counties, individual cropland fields and state-run farms.

Under s. 92.10, Stats., as modified by 1985 Wisconsin Act 29, the department is required to identify priority counties for erosion control, and to focus program resources on erosion control problems in the identified priority counties. The rule amendments would implement this statutory change. Previous requirements for the preparation of soil erosion control plans by counties would be limited to counties which are designated as priority counties for erosion control.

Previous rules specify deadline dates for the completion of soil erosion control plans by counties. Under previous rules, a deadline date could be extended by the department if state funding was not available to assist a county in preparing its erosion control plan. Under the rule amendments, the deadline date may also be extended by written notice if an extension is necessary in order to improve coordination with the nonpoint source water pollution abatement program under s. 144.25, Stats., or for any other reason agreed upon between the department and the county.

Under 1985 Wisconsin Act 29, the percentage of cost-sharing which could be funded under the state soil erosion control program was reduced from 75 percent to 70 percent. The rule amendments implement this statutory change. The rule amendments also apply the 70 percent limit only to state and federal funding sources.

Previous rules specify that cost-sharing funds could be applied to the following practices: stripcropping, diversions, terrace systems, waterways, critical area stabilization, grade stabilization structures, conservation tillage, and field windbreaks. The rule amendments add contour farming and streambank protection to the eligible practices.

In determining funding priorities, the department was previously required to consider a number of factors, including the degree to which the project complements other state and federal programs. In addition to previous coordination requirements, the rule amendments also require the department to coordinate funding with the Wisconsin Farmers Fund Program under s. 92.32, Stats., and the Wisconsin Conservation Corps program under s. 16.20, Stats.

Under previous rules, the department was required to prepare an annual allocation plan for the allocation of cost-share funds, and no funds could be released until the plan was completed. Under the rule amendments, the department is still required to prepare an annual allocation plan, but has flexibility to commit funds during the year, as grant proposals are received and processed.

The rule amendments also make certain technical and editorial drafting changes in the previous rules.

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1 Pursuant to authority vested in the state of Wisconsin  
2 department of agriculture, trade and consumer protection by s. 92.05,  
3 Stats., the department hereby amends rules interpreting s. 92.10,  
4 Stats., as follows:  
5 SECTION 1. Ag 160.01 is repealed and recreated to read:  
6 Ag 160.01 EROSION CONTROL GOALS. The goals of the soil erosion  
7 control program under ch. 92, Stats., and this chapter are as follows:

1 (1) ULTIMATE GOAL. By January , 2000, no individual  
2 cropland field in the state will have a soil erosion rate which  
3 exceeds T-value.

4 (2) INTERIM GOALS; COUNTIES. By July 1, 1990, no county  
5 will have an average annual cropland soil erosion rate which  
6 exceeds 1.5 times T-value. By July 1, 1993, no county will have  
7 an average annual cropland soil erosion rate which exceeds  
8 T-value.

9 (3) INTERIM GOALS; INDIVIDUAL CROPLAND FIELDS. By July 1,  
10 1990, no individual cropland field in the state will have a soil  
11 erosion rate which exceeds 3 times T-value. By July 1, 1995, no  
12 individual cropland field in the state will have a soil erosion  
13 rate which exceeds 2 times T-value.

14 (4) INTERIM GOALS; STATE-RUN FARMS. By July 1, 1990, no  
15 individual cropland field of a farm owned by the university of  
16 Wisconsin system or any other department or agency of state  
17 government will have a soil erosion rate which exceeds T-value,  
18 excluding research plots.

19 SECTION 2. Ag 160.03(12) through (19) are renumbered Ag  
20 160.03(13) through (20); and Ag 160.03(15), as renumbered, is  
21 amended to read:

22 Ag 160.03(15) "Technical guide" means the Wisconsin edition  
23 of the United States department of agriculture soil conservation  
24 service technical guide effective on ~~September 1, 1983~~ December 1,  
25 1985.

26 SECTION 3. Ag 160.03(12) is created to read:

27 Ag 160.03(12) "Priority county" means a county which, because

1 of the extent and severity of its soil erosion problems, is  
2 designated by the department as a priority county for the planning  
3 and implementation of soil erosion control programs, pursuant to  
4 s. 92.10, Stats.

5 SECTION 4. Ag 160.04 is amended to read:

6 Ag 160.04 SOIL EROSION CONTROL PLANS; GENERAL REQUIREMENT.

7 ~~Every~~ The land conservation committee in every priority county  
8 shall prepare a soil erosion control plan which conforms to the  
9 requirements of s. ~~92.10(5)~~ 92.10(6), Stats., and this chapter.  
10 Soil erosion control plans shall be completed and submitted for  
11 department review within the time period specified under s. Ag  
12 160.07. The department may not allocate funds under s. 92.14,  
13 Stats., to any county which has failed to meet its deadline under  
14 s. Ag 160.07 until the county's soil erosion control plan has been  
15 approved by the department under s. Ag 160.07.

16 SECTION 5. Ag 160.05(1)(intro.) is amended to read:

17 Ag 160.05(1) PRELIMINARY DESCRIPTION; LAND INVENTORY AND  
18 RATES OF EROSION. To provide a factual basis for the information  
19 required under s. ~~92.10(5)~~ 92.10(6), Stats., and this section,  
20 every soil erosion control plan shall include a land inventory and  
21 current estimate of soil erosion rates within the county. The  
22 land inventory and estimate of soil erosion rates shall conform to  
23 the requirements of this subsection.

24 SECTION 6. Ag 160.05(1)(a)1.f is repealed.

25 SECTION 7. Ag 160.05(1)(a)1.g is renumbered Ag  
26 165.05(1)(a)1.f.

27 SECTION 8. Ag 160.05(1)(b)1 is amended to read:

1 Ag 160.05(1)(b)1. Every soil erosion control plan shall  
2 include current estimates of soil erosion caused by wind and water  
3 within the county. ~~Estimates, expressed as average annual~~  
4 Estimated rates of soil erosion, shall be included for the county  
5 as a whole and for each of the land use categories under par. (a).  
6 Within each land use category, other than cropland, localized  
7 areas having especially high soil erosion rates shall be briefly  
8 identified and described.

9 SECTION 9. Ag 160.07(1)(a) through (c) and (2) are amended  
10 to read:

11 Ag 160.07(1)(a) For each priority county having an average  
12 annual cropland erosion rate of 8 or more tons per acre per year,  
13 a soil erosion control plan shall be completed by April 1,  
14 1985.

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

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

22 (2) The department may, by written notice, extend the  
23 deadlines under sub. (1) ~~if~~ for any of the following reasons:

24 (a) ~~state~~ State funding is not available to assist in  
25 preparing the soil erosion control plan.

26 (b) An extension is necessary in order to improve  
27 coordination with the nonpoint source water pollution abatement

1 program under s. 144.25, Stats.

2 (c) Any other reason agreed upon between the department and  
3 the county land conservation committee.

4 SECTION 10. Ag 160.08(2) is amended to read:

5 Ag 160.08(2) No funds for the preparation of soil erosion  
6 control plans may be allocated or released by the department  
7 except under a contract with a land conservation committee.  
8 Contracts shall set forth the terms and conditions under which  
9 funds are to be allocated to the committee. ~~No contract shall~~  
10 ~~become final until an allocation plan has been prepared under~~  
11 ~~sub. (1).~~

12 SECTION 11. Ag 160.09(1) is amended to read:

13 Ag 160.09(1) ALLOCATION PROCEDURE; GENERAL. The department  
14 shall allocate funds to land conservation committees for the  
15 implementation of erosion control plans, as provided in  
16 s. ~~92.10(3)(d)~~ 92.10(4)(e), Stats. Funds shall be allocated  
17 according to an annual allocation plan under sub. (2). Funds for  
18 cost sharing of practices may be allocated for some or all of the  
19 projects proposed under a soil erosion control plan, but the  
20 amount of the allocation may not exceed ~~75~~ 70% of the  
21 overall cost of projects included in the soil erosion control  
22 plan. The department may not allocate funds to a land conservation  
23 committee for soil erosion control unless the county soil  
24 erosion control plan has been approved by the department.

25 SECTION 12. Ag 160.09(2) is amended to read:

26 Ag 160.09(2) ALLOCATION PLAN. The department shall prepare  
27 an annual written plan for the allocation of soil erosion control

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

9 SECTION 13. Ag 160.09(3)(e) is amended to read:

10 Ag 160.09(3)(e) The degree to which the project complements,  
11 and is coordinated with the farmland preservation program created  
12 under ch. 91, Stats.; the Wisconsin farmers fund program under s.  
13 92.15, Stats.; the nonpoint source water pollution abatement  
14 program created under s. 144.25, Stats.; the public inland lake  
15 protection and rehabilitation program created under ch. 33,  
16 Stats.; the Wisconsin conservation corps program created under s.  
17 16.20, Stats.; the agricultural conservation program administered  
18 by the agricultural stabilization and conservation service of the  
19 United States department of agriculture; and target area programs  
20 administered by the soil conservation service of the United States  
21 department of agriculture.

22 SECTION 14. Ag 160.09(5)(a) is amended to read:

23 Ag 160.09(5)(a) The department may not allocate or release  
24 soil erosion control funds to a land conservation committee  
25 except under a written contract with the land conservation  
26 committee. A copy of each proposed contract shall be included  
27 with the department's funding allocation plan under sub. (2). ~~No~~

1 ~~funding contract between the department and a land conservation~~  
2 ~~committee shall become final until the department's allocation~~  
3 ~~plan has been adopted and has received all requisite approvals~~  
4 ~~under applicable law.~~

5 SECTION 15. Ag 160.11(4) is amended to read:

6 Ag 160.11(4) Cost-share payments under a landowner assistance  
7 agreement may not exceed ~~75~~ 70% of the actual cost incurred  
8 by the landowner or land user to implement an erosion control  
9 practice under the agreement. Cost-sharing funds allocated under  
10 s. Ag 160.09 may be supplemented with cost-sharing funds from  
11 other sources, ~~provided that the total amount of cost share~~  
12 Cost-share payments from state and federal sources to the  
13 landowner or land user ~~does~~ may not exceed ~~75~~ 70% of the actual  
14 cost incurred by the landowner or land user to implement the  
15 erosion control practice.

16 SECTION 16. Ag 160.12(9) and (10) are created to read:

17 Ag 160.12(9) CONTOUR FARMING. (a) Cost-sharing funds may be  
18 allocated to a landowner or land user as an incentive for farming  
19 on the contour. Cost-sharing funds may be allocated only during  
20 the first year to establish the system. The land conservation  
21 committee may not allocate more than \$8 per acre of state  
22 cost-share funds as an incentive.

23 (b) Cost-sharing funds may not be allocated to a landowner  
24 or land user to be used on lands that are already being farmed on  
25 the contour.

26 (c) Contour farming projects shall conform to the following  
27 requirements:

1 1. Farming on the contour shall be maintained for a minimum  
2 of 5 years, or 10 years if subsurface drainage is involved. Close  
3 growing crops such as grasses or legumes may be used in lieu of  
4 contouring during the maintenance period.

5 2. Contour farming systems shall be performed in compliance  
6 with technical guide specifications 330, 500 (obstruction  
7 removal) and 606 (subsurface drain) as they may apply.

8 (10) STREAMBANK AND SHORELINE PROTECTION. (a) Cost-sharing  
9 funds for streambank and shoreline protection may be used only for  
10 the purpose of preventing the loss of cropland from erosion.

11 Cost-sharing funds may be used only for:

- 12 1. Fencing.
- 13 2. The installation of rock riprap.
- 14 3. Shaping and seeding.

15 (b) Streambank protection projects shall be:

- 16 1. Maintained for a minimum of 25 years.
- 17 2. Installed in compliance with technical guide  
18 specification 580.

19 SECTION 17. Ag 160.15(1)(intro.) and (a) are renumbered Ag  
20 160.15(intro.) and (1).

21 SECTION 18. Ag 160.15(1)(b)(intro.) and 1 through 6 are  
22 renumbered Ag 160.15(2)(intro.) and (a) through (f).

23 SECTION 19. Ag 160.15(2) is repealed.

24 SECTION 20. The rules contained in this order shall take  
25 effect on the first day of the month following their publication,  
26 as provided in s. 227.026(1)(intro.), Stats.

27

1 Dated this 9th day of June, 1986.

2  
3 STATE OF WISCONSIN  
4 DEPARTMENT OF AGRICULTURE,  
5 TRADE AND CONSUMER PROTECTION

6 By K. P. Robert  
7 K. P. Robert, Administrator  
8 Agricultural Resource Management  
9 Division

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