

## Chapter ATCP 50

### SOIL AND WATER RESOURCE MANAGEMENT PROGRAM

#### Subchapter I — Definitions and General Provisions

|            |   |
|------------|---|
| ATCP 50.01 | Definitions.  |
| ATCP 50.02 | Soil and water resource management; program coordination. |
| ATCP 50.04 | Waivers.  |

#### Subchapter II — County Soil and Water Resource Management Program

|            |  |
|------------|--|
| ATCP 50.10 | County program; general.   |
| ATCP 50.12 | County soil erosion control plan.                                    |
| ATCP 50.16 | Farmland preservation; soil and water resource management standards. |
| ATCP 50.18 | Farmland preservation; conservation plans.                           |
| ATCP 50.20 | Farmland preservation; compliance.                                   |

#### Subchapter III — County Reports and Grant Applications

|            |                           |
|------------|---------------------------|
| ATCP 50.22 | Annual report.            |
| ATCP 50.24 | Annual grant application. |

#### Subchapter IV — Grants to Counties and Others

|            |  |
|------------|--|
| ATCP 50.30 | Annual grant allocation plan.  |
| ATCP 50.32 | Basic annual staffing grants to counties.                            |
| ATCP 50.34 | Shoreland management grants.   |
| ATCP 50.36 | Nonpoint pollution abatement grants.                                 |
| ATCP 50.38 | Other soil and water resource management grants.                     |
| ATCP 50.40 | County services related to cost-share grants and incentive payments. |
| ATCP 50.42 | Grant contracts with counties and others.                            |
| ATCP 50.44 | Grant payments to counties; contract terms.                          |

#### Subchapter V — Cost-Share Grants and Incentive Payments to Landowners and Land Users

|            |   |
|------------|---|
| ATCP 50.50 | Cost-share grants to landowners and land users.           |
| ATCP 50.52 | Incentive payments to landowners and land users.          |
| ATCP 50.54 | Cost-share rates and maximum payments; general.           |
| ATCP 50.56 | Economic hardship; cost-share rates and maximum payments. |

#### Subchapter VI — Practices Eligible for Cost-Share Grants

|             |                                    |
|-------------|------------------------------------|
| ATCP 50.60  | General.                           |
| ATCP 50.62  | Manure storage systems.            |
| ATCP 50.63  | Manure storage system abandonment. |
| ATCP 50.64  | Barnyard runoff control systems.   |
| ATCP 50.66  | Access roads and cattle crossings. |
| ATCP 50.665 | Animal trails and walkways.        |
| ATCP 50.67  | Cattle mounds.                     |

|            |   |
|------------|---|
| ATCP 50.68 | Conservation tillage.                               |
| ATCP 50.69 | Contour farming.                                    |
| ATCP 50.70 | Critical area stabilization.                        |
| ATCP 50.71 | Diversions.   |
| ATCP 50.72 | Field windbreaks.                                   |
| ATCP 50.73 | Filter strips.                                      |
| ATCP 50.74 | Grade stabilization structures.                     |
| ATCP 50.75 | Heavy use area protection.                          |
| ATCP 50.76 | Intensive grazing management.                       |
| ATCP 50.77 | Livestock fencing.                                  |
| ATCP 50.78 | Livestock watering facilities.                      |
| ATCP 50.79 | Milking center waste control systems.               |
| ATCP 50.80 | Nutrient and pesticide management.                  |
| ATCP 50.81 | Relocating or abandoning animal feeding operations. |
| ATCP 50.82 | Roofs.  |
| ATCP 50.83 | Roof runoff systems.                                |
| ATCP 50.84 | Sediment basins.                                    |
| ATCP 50.85 | Streambank and shoreline protection.                |
| ATCP 50.86 | Strip-cropping.                                     |
| ATCP 50.87 | Subsurface drains.                                  |
| ATCP 50.88 | Terrace systems.                                    |
| ATCP 50.89 | Underground outlets.                                |
| ATCP 50.90 | Waste transfer systems.                             |
| ATCP 50.91 | Water and sediment control basins.                  |
| ATCP 50.92 | Waterway systems.                                   |
| ATCP 50.93 | Well abandonment.                                   |
| ATCP 50.94 | Wetland development or restoration.                 |

#### Subchapter VII — Personnel Certification and Qualifications

|             |   |
|-------------|---|
| ATCP 50.95  | Agricultural engineering practitioner; certification. |
| ATCP 50.952 | Nutrient management planner; qualifications.          |
| ATCP 50.954 | Training for county staff.                            |

#### Subchapter VIII — Ordinances

|             |                                  |
|-------------|----------------------------------|
| ATCP 50.96  | Manure storage ordinances.       |
| ATCP 50.962 | Shoreland management ordinances. |
| ATCP 50.964 | Ordinance review and approval.   |

#### Subchapter IX — Evaluation Systems

|             |                               |
|-------------|-------------------------------|
| ATCP 50.97  | Accounting and recordkeeping. |
| ATCP 50.974 | Department review.            |

**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.

**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.

#### Subchapter I — Definitions and General Provisions

##### ATCP 50.01 Definitions. In this chapter:

(1) "Cost-share grant" means a grant that reimburses a landowner or land user for all or part of an eligible soil or water resource management practice under subch. VI that is identified in the grant.

(2) "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.

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

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

(5) "Incentive payment" means a payment made to a landowner or land user who complies with specified soil or water

resource management standards using practices chosen by the landowner or land user. An "incentive payment" does not include a cost-share grant.

(6) "Landowner" has the meaning given in s. 92.03 (4), Stats.

(7) "Land user" has the meaning given in s. 92.03 (5), Stats.

(8) "Manure" means livestock excreta and other materials such as bedding, rain or other water, soil, hair, feathers, and other debris normally included in animal manure handling operations.

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

(10) "NRCS" means the natural resources conservation service of the U. S. department of agriculture.

**Note:** The natural resources conservation service is the new name for the soil conservation service.

(11) "Priority lake" has the meaning given in s. 281.65 (2) (be), Stats.

(12) "Priority watershed" has the meaning given in s. 281.65 (2) (c), Stats.

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

(14) "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.

(15) "Technical guide" means the natural resources conservation service field office technical guide, published by the natural

resources conservation service of the United States department of agriculture, that is in effect on July 1, 1999.

**Note:** Copies of the technical guide are on file with the department, the secretary of state and the revisor of statutes. Copies of individual standards contained in the technical guide may be obtained from the county land conservation committee or from a field office of the United States department of agriculture, natural resources conservation service.

**(16)** "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.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96; **am. (15), Register, June, 1999, No. 522, eff. 7-1-99.**

**ATCP 50.02 Soil and water resource management; program coordination. (1) COORDINATED PROGRAM.** The department shall administer a coordinated soil and water resource management program to achieve the purposes specified under s. 92.14 (2), Stats. To the maximum extent feasible, the department shall integrate the following programs related to soil and water resource management:

- (a) The erosion control planning program under s. 92.10, Stats.
- (b) Farmland preservation compliance requirements under ss. 92.104 and 92.105, Stats.
- (c) DNR programs related to protection and rehabilitation of inland lakes under ch. 33, Stats., nonpoint source pollution abatement under ch. 281, Stats., and pollution discharge elimination under ch. 283, Stats.
- (d) The adoption of local ordinances related to soil and water resource management practices under s. 92.11, Stats., manure storage facilities under s. 92.16, Stats., and shoreland management under s. 92.17, Stats.
- (e) The department's award of soil and water resource management grants under s. 92.14, Stats.
- (f) The training and certification program under s. 92.18, Stats.
- (g) Other federal, state and local programs related to land and water resource management.

**(2) ACTIVITIES IN SUPPORT OF COORDINATED PROGRAM.** In support of the coordinated soil and water resource management program under sub. (1), the department may do all of the following:

- (a) Recommend soil and water resource management practices to achieve common program goals.
- (b) Promote integrated data collection and management related to soil and water resource management.
- (c) Enter into memoranda of understanding, and coordinate policies, procedures and priorities with federal, state and local agencies.
- (d) Prepare and comment on proposals related to soil and water resource management and nonpoint source pollution abatement.
- (e) Conduct project and program reviews.
- (f) Provide information, education, training and technical assistance.
- (g) Make recommendations and provide staff support to the land and water conservation board.
- (h) Perform other functions within its authority.

**(3) COOPERATION WITH OTHER AGENCIES.** The department, when planning and implementing the coordinated program under sub. (1), shall consult with all of the following:

- (a) DNR.
- (b) County land conservation committees.
- (c) The United States department of agriculture, natural resources conservation service.
- (d) Others as the department deems necessary.

**Note:** Pursuant to ss. 92.14 (12) and 281.65 (4) (o), Stats., the department and the DNR jointly submit an annual program evaluation and summary of program accomplishments to the land and water conservation board. Biennially, the department prepares a state soil and water conservation report under s. 92.05 (2) (e), Stats., which DNR includes in its biennial report to the LWCB under s. 281.65 (3) (b), Stats.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.04 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. A waiver under this section shall be signed by the secretary. The department may not grant a waiver from statutory requirements.

**Note:** Under s. ATCP 50.18 (4), the county land conservation committee is authorized to grant variances from the schedule of compliance in an individual landowner or land user's conservation plan. Those variances are not considered variances or waivers from the requirements of this chapter, and they are not covered by this section. As explained in a note under s. ATCP 50.18 (4), the land and water conservation board may also grant variances from individual conservation plan schedules and may grant variances from the schedules for all individuals in a particular region or area of the state. Those variances are not considered variances or waivers from specific requirements of this chapter and are not covered by this section.

Waivers under this section may affect one or more landowners. A waiver may, for example, permit a higher cost-share rate than that normally authorized; permit cost-sharing for practices not ordinarily eligible; or grant a county additional time to prepare a soil erosion control plan.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

## Subchapter II — County Soil and Water Resource Management Program

**ATCP 50.10 County program; general. (1) PROGRAM ELEMENTS.** Every county land conservation committee shall establish and maintain a county soil and water resource management program. The program shall include the following components, except as otherwise provided under this chapter:

- (a) A soil erosion control plan under s. ATCP 50.12, and a program to implement that plan.
- (b) A farmland preservation compliance program under ss. ATCP 50.16, 50.18 and 50.20.
- (c) A plan to abate both of the following, and a program to implement that plan:
  1. Nonpoint source pollution identified in DNR notices under s. 281.20 and ch. 283, Stats.
  2. Nonpoint source pollution in priority watersheds and priority lake areas under s. 281.65, Stats., if any.

**Note:** This subsection does not require a county to participate in the DNR priority watershed program. However, if the county is a participant, this subsection requires that the priority watershed program be a component of the county's overall soil and water resource management program, and that the components of the county program be coordinated.

- (d) A program to prepare and submit annual reports under s. ATCP 50.22 and annual grant applications under s. ATCP 50.24.
- (e) A program to receive, distribute and account for soil and water resource management grants under this chapter.
- (f) A procedure to ensure that practices funded under this chapter are designed, constructed and installed according to this chapter.
- (g) An accounting and recordkeeping system under s. ATCP 50.97.
- (h) An information and education program to promote effective soil and water resource management.
- (i) Other program elements 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 all of the following:

- (a) The county's land information and modernization program under ss. 16.967 and 59.72 (3), Stats.
- (b) The related activities of the United States department of agriculture, natural resources conservation service, in that county.
- (c) The related activities of state agencies and local governments in that county.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.12 County soil erosion control plan. (1) REQUIREMENT.** By January 1, 1999, every county land conservation committee shall prepare and submit, for department approval, a county soil erosion control plan unless one of the following applies:

(a) The department has already approved a soil erosion control plan for that county.

(b) The department, after consulting with the land and water conservation board, grants a written waiver to that county based on a finding that cropland soil erosion is not a high priority problem in that county. The department finding under this subsection shall be based on a county board finding that cropland soil erosion is not a high priority problem in the county, and other relevant information.

**Note:** The county land conservation committee may request state funds to prepare soil erosion control plans. Under s. 92.10 (4) (c), Stats., up to 50% of the cost of preparing the plans may be allocated to the county by the department in the annual grant allocation plan. The committee may request the funding under the basic annual staffing grants under s. ATCP 50.32, which are matched by county funds.

The soil erosion control plan may be prepared using data and information previously collected by a county or other entities, including information such as natural resource inventory data from the NRCS. The data and soil survey information used in the plan may have been obtained through earlier funding by the department under the soil and water resource management program.

**(2) PLAN CONTENTS.** A county soil erosion control plan under sub. (1) shall include all of the following:

(a) A general inventory of land in the county. The inventory shall describe all of the following:

1. Major soil types and their distribution.
2. Surface topography and the distribution of major topographical features.
3. Watershed areas and their boundaries.
4. Land use categories and their distribution.

(b) The estimated rate of soil erosion for the county as a whole and for each of the land use categories under par. (a) 4.

**Note:** The estimated rate of soil erosion may be based on data and information previously obtained by the county or other entities, such as natural resource inventory data from NRCS.

(c) Local areas within each land use category under par. (a) 4. that have especially high rates of soil erosion.

(d) The estimated rate of cropland soil erosion within each watershed or other geographic area identified by the county land conservation committee.

(e) The estimated rate of soil erosion for each cropland field in the county.

**Note:** In order to estimate the rate of soil erosion for each cropland field, a county land conservation committee need not individually analyze each field. The committee may estimate the soil erosion rates on individual fields based on representative sampling of fields in an area or region.

A county land conservation committee may seek a partial waiver from the department under s. ATCP 50.04 regarding the requirement under this paragraph to determine an estimate for each cropland field, if the committee does not have access to any data or information which would allow it to form even an estimate of the rate of soil erosion for the cropland fields in a particular area of the county. As part of the granting of such a waiver, the department may require that the committee take a representative sampling or obtain other data within some time period in order to make the estimate. The department may also provide funding to the committee under its annual allocation plan under s. ATCP 50.30 to obtain the necessary data or information.

(f) An acceptable rate of soil erosion for each cropland field in the county, corresponding to the standard specified under s. ATCP 50.16 (1).

(g) An identification of farmland covered by conservation plans under s. ATCP 50.18.

(h) The county's soil erosion control goals, including standards which the county land conservation committee adopts under s. ATCP 50.16 (1).

(i) An identification of land use changes or management practices needed to achieve the county's soil erosion control goals under par. (h).

(j) The county's long-term strategy under sub. (3) to bring about land use changes or management practices identified under par. (i). A county's long-term strategy may include activities that are contingent on funding.

**(3) SOIL EROSION CONTROL; LONG-TERM STRATEGY.** A county's long-term soil erosion control strategy under sub. (2) (j) may include any of the following activities:

(a) Funding, or otherwise encouraging, cost-effective erosion control practices that will reduce soil erosion in priority areas to acceptable rates.

(b) Providing technical assistance to landowners and land users to help them control soil erosion.

(c) Developing and administering conservation plans under s. ATCP 50.18 and 50.20.

(d) Providing information and education to landowners and land users.

(e) Developing and implementing soil and water conservation ordinances under s. 92.11, Stats., and shoreland management ordinances under s. 92.17, Stats.

(f) Coordinating soil and water conservation activities with federal, state and local agencies.

(g) Ranking areas in the county where the soil erosion rate exceeds the acceptable rate established under sub. (2) (f). The county shall determine priority areas based on the following factors:

1. The total amount of erosion occurring in each area.
2. The extent to which the current estimated rate of erosion under sub. (2) (e) exceeds the acceptable rate under sub. (2) (f).
3. The off-site damages, including water degradation, caused by the erosion.
4. The extent to which the erosion is preventable.
5. The cost of preventing the erosion.
6. The feasibility of land use changes, management practices, and soil and water resource management projects to control the erosion.
7. Other identified factors which the county land conservation committee considers relevant.

(h) Other activities identified by the county land conservation committee.

**(4) PLAN DEVELOPMENT.** A county land conservation committee, when preparing a county soil erosion control plan under sub. (1), shall solicit comments from the department; DNR; the United States department of agriculture, natural resource conservation service; and the county land information office created under s. 59.72 (3), Stats.

**(5) NOTICE OF PRIORITY AREAS.** A county land conservation committee shall notify landowners and land users in each priority erosion control area identified by the committee under sub. (3) (g). Notice shall include all of the following:

- (a) The estimated erosion rate for the priority area.
- (b) The estimated erosion rate for the landowner's or land user's individual parcel, if known.
- (c) Recommended practices which may be adopted by landowners or land users to reduce soil erosion.
- (d) Other information which the land conservation committee considers appropriate.

**Note:** Notices to landowners under sub. (5) may be included in conservation plans for those landowners under s. ATCP 50.18.

**(6) PUBLIC HEARING.** A county land conservation committee shall hold at least one public hearing on its proposed soil erosion control plan. At least 45 days before it holds a public hearing, the committee shall submit its draft plan to the department for preliminary review and comment. The department shall return its comments, if any, within 30 days after it receives the draft plan.

**(7) DEPARTMENT APPROVAL.** A county land conservation committee, after holding a public hearing under sub. (6), shall submit its final draft plan to the department for approval. The department, after obtaining the recommendations of the land and water conservation board, shall approve or disapprove the plan. The department may approve a plan subject to conditions specified by the department.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.16 Farmland preservation; soil and water resource management standards.** (1) STANDARDS

REQUIRED. (a) Every county land conservation committee shall adopt a standard which provides that the rate of soil erosion on individual cropland fields enrolled in the farmland preservation program under subch. IX of ch. 71, Stats., may not exceed a rate specified by the committee. The rate specified by the committee may not exceed T-value. The standard which the committee adopts under this paragraph shall apply as provided under s. 92.105 (7), Stats.

(b) A county land conservation committee may adopt, in addition to the standard under par. (a), other soil and water resource management standards that apply to persons claiming farmland preservation tax credits under subch. IX of ch. 71, Stats.

(2) PUBLIC HEARING. Before a county land conservation committee adopts or amends a standard under sub. (1), the committee shall hold a public hearing on the proposed standard or amendment. At least 45 days prior to the public hearing, the committee shall submit the proposed standard or amendment for preliminary review and comment by the department. The department shall return its comments, if any, within 30 days after it receives the proposed standard or amendment.

(3) SUBMITTING STANDARDS FOR LWCB APPROVAL. A county land conservation committee, after holding a public hearing under sub. (2), shall submit its final draft standard or amendment to the department, for approval by the land and water conservation board.

(4) DEPARTMENT RECOMMENDATION TO LWCB. Within 30 days after the department receives a county standard or amendment under sub. (3), the department shall submit all of the following to the land and water conservation board, and shall provide copies to the county land conservation committee:

(a) A copy of the county standard or amendment.

(b) A report recommending that the land and water conservation board approve or disapprove the county standard or amendment. The department's recommendation shall be signed by the administrator of the department's agricultural resource management division, or by the administrator's designee.

(c) A proposed land and water conservation board decision conforming to the department's recommendation under par. (b). The proposed decision shall include proposed findings of fact, proposed conclusions of law and a proposed order approving or disapproving the standard.

(5) LWCB REVIEW AND ACTION. Within 90 days after the land and water conservation board receives the department's recommendation under sub. (4), the board shall issue a decision approving or disapproving the county standard or amendment. Before issuing its decision, the board shall give the county land conservation committee an opportunity to appear before the board and comment on the department's recommendation under sub. (4). The board may approve a county standard or amendment subject to conditions specified by the board.

(6) GROUNDS FOR DISAPPROVAL. The land and water conservation board may disapprove a county's standard or amendment for any of the following reasons:

(a) The standard or amendment fails to comply with ch. 92, Stats., or this chapter.

(b) The standard or amendment does not reasonably conform to guidelines which the land and water conservation board has established under s. 92.105 (2), Stats.

(c) The standard or amendment is arbitrary or capricious.

(d) The county land conservation committee has failed to provide necessary information which the department or the land and water conservation board has requested in connection with its review of the standard or amendment.

(7) FORM OF DECISION; NOTICE TO COUNTY. (a) In its decision under sub. (5), the land and water conservation board may adopt

the department's proposed decision under sub. (4) (c), or it may modify the department's decision as it deems appropriate. If the board modifies the department's decision, the board shall explain the basis for the modification.

(b) The chair of the land and water conservation board, or the chair's designee, shall sign the board's decision under sub. (5).

(c) A decision under sub. (5) shall state that the decision becomes final 10 days after it is served under par. (d) unless the county land conservation committee first requests a contested case hearing on the decision, pursuant to s. 227.42, Stats. The board may grant a request for hearing and may affirm or modify its decision based on the hearing record.

**Note:** If necessary, the LWCB may ask the department to appoint an impartial hearing examiner to hear and evaluate evidence in contested cases on behalf of the LWCB. See ch. 227, Stats., for procedure in contested cases.

(d) The department shall serve the land and water conservation board's decision under sub. (5), in person or by certified mail, on the chair of the county land conservation committee. The department shall serve a copy of the decision by regular mail on the county land conservation committee office, the county planning and zoning agency, and on any other affected zoning authority in the county.

(8) STANDARD INCORPORATED INTO CONSERVATION PLANS. Whenever the land and water conservation board approves a county standard or amendment under this section, the county land conservation committee shall incorporate that standard or amendment into every conservation plan under s. ATCP 50.18 that is prepared or amended after the approval.

(9) EFFECT OF DISAPPROVAL. (a) If a county land conservation committee fails to adopt, or the land and water conservation board fails to approve, a standard required under sub. (1) (a), owners of farmland in that county may not claim farmland preservation tax credits under subch. IX of ch. 71, Stats.

(b) If the land and water conservation board fails to approve a county standard adopted under sub. (1) (b), owners of farmland in that county need not comply with that standard in order to claim farmland preservation tax credits under subch. IX of ch. 71, Stats.

(c) If the land and water conservation board fails to approve an amendment to a county standard under sub. (1), owners of farmland in that county may claim farmland preservation tax credits under subch. IX of ch. 71, Stats., if they comply with either of the following, as applicable:

1. The standard under sub. (1) that was last approved by the board.

2. The standard included in their farmland preservation agreements under ch. 91, Stats.

(d) The department may not award any grant under this chapter to a county land conservation committee that has failed to adopt a standard under sub. (1) (a) which is approved by the land and water conservation board.

**Note:** Each county is required to establish soil and water conservation standards pursuant to s. 92.105 (1), Stats.

(10) DEPARTMENT REVIEW. Pursuant to s. 92.106, Stats., the department shall review all county soil and water conservation standards at least once every 5 years to determine whether the standards are consistent with the purposes of the soil and water resource management program under s. 92.14, Stats., and this chapter. The department may require the county to submit its most current standards by a specific date determined by the department, or when the county submits agricultural preservation plans or plan amendments for certification under ch. 91, Stats.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.18 Farmland preservation; conservation plans.** (1) REQUIREMENT. A county land conservation committee shall prepare a conservation plan for every farm in that county

for which the owner claims farmland preservation tax credits under subch. IX of ch. 71, Stats. The committee shall prepare the

plan in consultation with the owner and shall provide a copy of the plan to the owner.

**Note:** Conservation plans may be prepared in response to participation in one of a number of different conservation programs, including the Wisconsin farmland preservation program under ch. 91, Stats., the federal conservation reserve program and others. This chapter and ch. 92, Stats., encourage the coordination of these conservation efforts and the sharing of data and plans. Acreage under any conservation plan should be reported in the annual report required under s. ATCP 50.22.

**(2) PLAN CONTENTS.** A conservation plan under sub. (1) shall include all of the following:

(a) A map delineating each farmland field covered by the plan.

(b) The current erosion rate for each farmland field covered by the plan.

(c) For each field which fails to comply with a standard under s. ATCP 50.16 (1), recommended practices to bring that field into compliance, and to maintain compliance, with that standard.

(d) A compliance schedule under sub. (3).

**(3) COMPLIANCE SCHEDULE.** A conservation plan under sub. (1) shall notify the farmland owner that the owner must do both of the following in order to claim farmland preservation tax credits under subch. IX of ch. 71, Stats.:

(a) Comply with each approved standard under s. ATCP 50.16 (1) by a specified date which is not more than 5 years after the effective date of the plan or the standard, whichever is later.

(b) Make sufficient annual progress to meet the compliance deadline under par. (a).

**(4) SCHEDULE VARIANCE.** A county land conservation committee may, for good cause shown, grant a variance from a compliance schedule under sub. (3). The committee shall keep a record of all variances granted under this subsection, including the reason for each variance. The committee shall, in each of its annual reports under s. ATCP 50.22, report any variances which it has granted under this subsection during the preceding calendar year. If the department finds that a county land conservation committee has granted improper variances, the department may require the committee to submit proposed variances for department approval.

**Note:** The land and water conservation board may also grant a variance from a compliance schedule established under sub. (3) in an individual case. In addition, the LWCB may grant a variance for a multiple-county area or region based on factors affecting a broad area of the state.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

#### **ATCP 50.20 Farmland preservation; compliance.**

**(1) MONITORING COMPLIANCE.** A county land conservation committee shall monitor compliance with conservation plans and applicable standards under s. ATCP 50.18. Monitoring shall include all of the following:

(a) A system by which farmland owners certify compliance to the committee, in response to a request by the committee. The department shall provide model certification forms to the committee. The committee may require farmland owners to certify compliance on an annual or other reasonable periodic basis.

(b) A system for monitoring compliance by means of field inspections, aerial photographs, remote sensing or other methods which the committee considers reliable. The committee shall monitor each farmland owner's compliance at least once every 6 years, and more frequently if necessary.

**(2) NOTICE OF NONCOMPLIANCE.** (a) A county land conservation committee shall issue a notice of noncompliance to each farmland owner who does any of the following:

1. Fails to comply with county standards under s. ATCP 50.16 (1) according to the compliance schedule specified under s. ATCP 50.18 (3). A notice under this paragraph shall be based on an on-site inspection unless the farmland owner waives that inspection.

2. Fails to certify compliance under sub. (1) (a), as required by the county land conservation committee.

3. Refuses to permit an inspection under subd. 1.

(b) A farmland owner who receives a notice of noncompliance under par. (a) is not eligible for farmland preservation tax credits under subch. IX of ch. 71, Stats., as provided under ss. 92.104 and 92.105, Stats.

(c) A county land conservation committee shall issue a notice of noncompliance under par. (a) on a form supplied by the department. The committee shall send a copy of the notice to the department, to the state of Wisconsin department of revenue, and to the county or local zoning authority if the land is covered by an exclusive agricultural zoning ordinance.

(d) Before it issues a notice of noncompliance under par. (a), a county land conservation committee shall notify the farmland owner of its intent to issue the notice, and shall inform the owner that he or she may appear at a scheduled meeting to contest or discuss the proposed notice. The committee shall issue its notice of intent to the farmland owner by certified mail at least 10 days before the scheduled meeting.

(e) A county land conservation committee shall cancel a notice of noncompliance issued under par. (a) if the committee finds that the farmland owner has corrected the violations. The committee may cancel a notice issued under par. (a) 1. if the committee finds that the farmland owner has made satisfactory progress toward correcting the violations. The committee shall send a copy of any cancellation notice to the department, to the state of Wisconsin department of revenue, and to the county or local zoning authority if the land is covered by an exclusive agricultural zoning ordinance.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

### **Subchapter III — County Reports and Grant Applications**

**ATCP 50.22 Annual report. (1) REQUIREMENT.** By April 15 of each year, a county land conservation committee receiving funding under this chapter 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 include all of the following:

(a) An annual summary of program activities and accomplishments under sub. (2).

(b) A report on cropland soil erosion under sub. (3).

(c) A financial report under sub. (4).

(d) A listing of each variance which the county land conservation committee granted during the preceding calendar year pursuant to s. ATCP 50.18 (4), including the reason for each variance.

**Note:** The department will distribute report forms as soon as possible prior to January 1 of each year, for return by April 15 of that year.

**(2) SUMMARY OF ACTIVITIES AND ACCOMPLISHMENTS.** In its annual report under sub. (1) (a), a county land conservation committee shall report its activities and accomplishments related to soil and water conservation during the preceding calendar year. The report shall include, but need not be limited to, the following:

(a) Activities and accomplishments funded, wholly or in part, under this chapter.

(b) A report showing how staff resources, funded wholly or in part under this chapter, were allocated.

**(3) REPORT ON CROPLAND SOIL EROSION.** In its annual report on cropland soil erosion under sub. (1) (b), a county land conservation committee shall include all of the following:

(a) A summary of the methods, if any, which the committee is currently using to monitor cropland soil erosion and identify serious soil erosion problems.

(b) A description of the systems, if any, which the committee is currently using to collect, analyze, store, update and retrieve soil erosion data.

(c) The committee's estimate of all the following:

1. The current number of cropland acres in the county.

2. The current number of cropland acres under conservation plans.

**Note:** Conservation plans may be prepared in response to participation in one of a number of different conservation programs, including the Wisconsin farmland preservation program under ch. 91, Stats., the federal conservation reserve program and others. This chapter and ch. 92, Stats., encourage the coordination of these conservation efforts and the sharing of data and plans. Acreage under any conservation plan should be reported in the annual report required under this section.

3. The current number of cropland acres which are subject to farmland preservation agreements or certified exclusive agricultural zoning ordinances under ch. 91, Stats.

(d) For each category under par. (c), the approximate number of cropland acres for which the committee believes that it has reliable current estimates of soil erosion. The report shall describe the methods used to obtain those estimates.

(e) For each category under par. (c), the approximate number of cropland acres for which the committee believes that the current rate of soil erosion is each of the following:

1. Not more than T-value.
2. More than T-value, but not more than twice T-value.
3. More than twice T-value, but not more than 3 times T-value.
4. More than 3 times T-value.
5. Not reasonably determinable based on available data.

(f) An assessment of the county's progress toward achieving compliance with the statewide soil erosion goal under s. 92.025, Stats. The committee shall base its assessment, where possible, on reliable current data.

(g) An identification of key soil erosion problems and data needs.

**(4) FINANCIAL REPORT.** In its annual report under sub. (1) (c), a county land conservation committee shall include a financial statement for the preceding calendar year showing all of the following:

(a) The amount of money which the county land conservation committee received under this chapter, and the purposes for which the committee received that money.

(b) The amount of money which the county land conservation committee spent under this chapter, and the purposes for which it spent that money.

(c) The amount of money, received under this chapter, which remains in county accounts at calendar year-end.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.24 Annual grant application. (1) REQUIREMENT.** 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 committee shall file its grant application on a form provided by the department.

**Note:** The department and DNR will jointly solicit grant applications from county land conservation committees under this chapter and s. 281.65, Stats. The department and DNR will distribute grant application forms as soon as possible prior to January 1 of each year, for return by April 15 of that year. Before it distributes grant application forms to the counties, the department will consult with county representatives regarding the department's tentative funding priorities. The department will give notice of its tentative priorities when it distributes grant applications to the counties. The department may modify its tentative priorities based on the actual grant applications which the counties submit.

**(2) CONTENTS.** In its grant application under sub. (1), a county land conservation committee shall identify all of the following:

(a) The soil and water resource management activities which the county proposes to undertake under this chapter during the next calendar year.

(b) The total amount of county staff time projected for the activities under par. (a), and the projected allocation of staff time by activity.

(c) The amount of funding requested for staff salaries, fringe benefits, training and support, in order to carry out the activities under par. (a).

(d) The amount of funding requested for cost-share grants and incentive payments to farmers. The committee shall identify, in its funding request, any amounts which the county proposes to retain as reimbursement of direct county costs incurred in connection with the cost-share grants or incentive payments.

(e) The nature and amount of any other funding requested in connection with activities under par. (a).

(f) Any information which the committee wishes to provide in support of its grant application.

**Note:** The department awards grants according to subch. IV.

**(3) GRANT APPLICATIONS FROM OTHERS.** (a) The department may accept grant applications from persons other than county land conservation committees, as provided under s. 92.14, Stats. The department may require a grant applicant to use a form provided by the department and to submit the application by a deadline date which the department specifies. No town or municipality may apply directly to the department for funds to implement practices required by a shoreland management ordinance under s. 92.17, Stats.

**Note:** A town or municipality seeking funds to implement practices required under a shoreland management ordinance must submit a request to the county for possible inclusion in the county's annual grant application.

(b) Whenever the department receives a grant request from a farmer under s. 92.14 (3) (b) or (e), Stats., the department shall provide a copy of that grant request to the county land conservation committee in each county in which the affected land is located.

(c) A person, other than a farmer under par. (b), who files a grant application with the department under par. (a) shall at the same time file a copy of that application with the land conservation committee in each county in which the affected land is located.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96; correction in (3) (b) made under s. 13.93 (2m) (b) 7., Stats.

## Subchapter IV — Grants to Counties and Others

**ATCP 50.30 Annual grant allocation plan. (1) PLAN REQUIRED.** Except as authorized under sub. (6), the department shall allocate grants under this chapter according to an annual grant allocation plan that is reviewed by the land and water conservation board.

**(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 in consultation with DNR after reviewing county grant applications under s. ATCP 50.24.

(b) The department shall provide a preliminary allocation plan to DNR, the land and water conservation board and every county land conservation committee by September 1 of the year preceding the calendar year to which the plan applies.

(c) The department, after obtaining the recommendations of the land and water conservation board, shall issue its final 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 land and water conservation board, as well as updated estimates of project costs. The department shall provide copies of the final allocation plan to DNR, the land and water conservation board and every county land conservation committee.

**(3) PLAN CONTENTS.** The department's annual grant allocation plan under sub. (1) shall specify, for the next calendar year, all of the following:

(a) The total amount appropriated to the department for possible allocation under the plan, including grant appropriations under s. 20.115 (7) (c), (qd) and (km), Stats.

**Note:** Section 20.115 (7) (km), Stats., was repealed by 1999 Wis. Act 9.

(b) The total amount allocated under the plan.

(c) The total amount allocated for basic annual staffing grants under s. ATCP 50.32, the amount allocated to each county, and the reasons for any differences in allocations between counties.

(d) The total amount allocated for shoreland management grants under s. ATCP 50.34, the amount allocated to each county, the amounts allocated directly to farmers, and the reasons for the allocations.

(e) All of the following information related to nonpoint source water pollution abatement grants under s. ATCP 50.36:

1. The total amount allocated under s. ATCP 50.36.
2. The subtotal amounts allocated under s. ATCP 50.36 (1) and (2).
3. The amount allocated for use in each county, if known.
4. The total amount allocated for use in priority watersheds or priority lake areas, and the amount allocated for use in each priority watershed or priority lake area.
5. The reasons for the allocations.

(f) All of the following information related to other soil and water resource management grants under s. ATCP 50.38:

1. The total amount allocated under s. ATCP 50.38.
2. The subtotal amounts allocated under s. ATCP 50.38 (1), (2) and (3).
3. The amount allocated for use in each county.
4. The amount allocated for use by each grant recipient other than a county land conservation committee.

5. The reasons for the allocations. The reasons may be explained in the environmental assessment which the department prepares under s. ATCP 3.02 (1) (h) in connection with the annual allocation plan.

**(4) COUNTIES ELIGIBLE FOR GRANTS.** (a) After January 1, 1999, the department may not award or distribute a grant under this chapter to a county land conservation committee that has failed to comply with s. ATCP 50.12.

(b) The department may not award or distribute a grant under this chapter to a county land conservation committee that has failed to do any of the following:

1. Establish a soil and water resource management standard under s. ATCP 50.16 (1) (a) for lands enrolled in the farmland preservation program.
2. Submit an annual report under s. ATCP 50.22 for the preceding calendar year.
3. Submit an annual grant application under s. ATCP 50.24.

**(5) GRANT ALLOCATION CRITERIA; GENERAL.** When preparing an annual grant allocation plan under sub. (1), the department shall give highest priority to maintaining county staff and project continuity. The department shall also consider all of the following:

- (a) The relative severity and priority of the soil erosion and water quality problems addressed.
- (b) The extent to which the funded activities will address and resolve high priority problems.
- (c) The relative cost-effectiveness of funded activities in addressing and resolving high priority problems.
- (d) The availability of alternative measures to address and resolve high priority problems.
- (e) The extent to which funded activities are part of a systematic and comprehensive approach to soil erosion and water quality problems.
- (f) The completeness of the grant applications and supporting data.

(g) The demonstrated cooperation and commitment of the grant applicant, including the applicant's commitment of staff and financial resources.

(h) The demonstrated ability of the grant applicant to manage and implement funded projects.

(i) The degree to which funded projects contribute to a coordinated soil and water resource management program under s. ATCP 50.02 and avoid duplication of effort.

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

**(6) SUPPLEMENTARY ALLOCATION PLAN.** (a) By April 30 of the year in which grant monies are distributed, the department shall prepare a supplementary allocation plan if, by December 1 of the preceding year, grant monies totalling \$50,000 or more became available for redistribution for either of the following reasons:

1. A grant recipient designated under the annual allocation plan agrees to a reduced grant award because the grant recipient determined that the full grant award is no longer needed.
2. A grant recipient designated under the annual allocation plan returns some or all of the funds distributed to that recipient under a prior grant.

(b) If the department is required to prepare a supplementary allocation plan under par. (a), the department shall notify county land conservation committees and persons who made annual applications under s. ATCP 50.24 that they may apply for additional grant funds under the supplementary allocation plan. The department shall include, in its notice, a supplementary grant application form and a statement of the amount of monies available for distribution under the supplementary allocation plan.

(c) Applicants seeking additional grant awards under a supplementary grant allocation plan shall submit application forms to the department by the first business day of the year in which the grant monies are to be distributed.

(d) A supplementary allocation plan under par. (a) shall comply with subs. (2) through (5). Before it issues the supplementary allocation plan, the department shall submit the draft plan to DNR and the land and water conservation board for review and comment.

(e) If funds totalling less than \$50,000 become available under par. (a), or if funds become available after December 1 of the year preceding the year of distribution, the department may reallocate the funds according to a supplementary allocation plan under this section or may allocate the funds in the next allocation year.

**(7) DISTRIBUTING GRANTS.** The department shall distribute grants according to the annual grant allocation plan under sub. (1) or the supplementary grant allocation plan under sub. (6). Grants shall comply with applicable requirements under this chapter. The department may specify grant terms and conditions which it considers appropriate.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.32 Basic annual staffing grants to counties.**

**(1) ELIGIBLE COUNTIES.** From the appropriation under s. 20.115 (7) (c), Stats., the department shall award a basic annual staffing grant to each eligible county land conservation committee, provided that the county board has resolved to match the grant with an equal commitment of county funds. A county board may not reallocate grant funds to other county agencies to implement the county's soil and water resource management program without the department's written approval.

**(2) USE OF STAFFING GRANTS; GENERAL.** A basic annual staffing grant under sub. (1) may pay for salaries, fringe benefits, training, and staff support costs under sub. (3) for county employees and agents engaged in soil and water resource management activities under this chapter, subject to the terms of the grant.

**Note:** The department may reimburse a county under this subsection for costs for training of land conservation committee members. The department may also reimburse a county under s. ATCP 50.40 for technical assistance and other services performed by county personnel in connection with specific cost-share grants or incentive payments. Payments under s. ATCP 50.40 are limited to 15% of the total eligible project cost.

**(3) STAFF SUPPORT COSTS.** A basic annual staffing grant under sub. (1) may pay for any of the following staff support costs identified in the grant application, if approved by the department:

- (a) Travel expenses, including mileage charges, vehicle leases or purchases, meals, lodging and other necessary costs.

- (b) Personal computers, software, printers and related devices.
- (c) Office supplies, including paper, copies, printing and postage.
- (d) Office equipment and furnishings, including desks, chairs, calculators, drafting equipment, and file cabinets.
- (e) Field equipment.
- (f) A proportionate share of the costs of required financial and compliance audits.
- (g) Costs for information and education supplies and services which county employees or agents use or distribute in connection with their activities under this chapter.
- (h) Other staff support costs approved by the department.

**(4) GRANT AMOUNTS.** The department may award different grant amounts to different counties under sub. (1), based on the department's assessment of funding needs and priorities. Subject to the availability of funds, the department shall award at least the following amounts to the following counties:

- (a) \$12,000 to a county that has a county conservationist operating according to an agreement between the department and the county land conservation committee.

**Note:** When a county employs a new county conservationist, the department enters into an agreement with the county land conservation committee regarding the training, responsibilities, professional qualifications and professional development of that county conservationist. The agreement continues until canceled or modified, or until the county conservationist leaves the employ of that county. The county conservationist's actual employment contract is normally with the county executive or the county board.

- (b) \$7,000 to a county that does not have a county conservationist operating under an agreement between the department and the county land conservation committee.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.34 Shoreland management grants.**

**(1) GENERAL.** From the appropriation under s. 20.115 (7) (qd), Stats., the department may award cost-share grants to farmers, or may award grants to county land conservation committees to finance cost-share grants or incentive payments to farmers, to implement practices required by a county, town or municipal shoreland management ordinance under s. 92.17, Stats. The department shall determine grant amounts based on the department's assessment of funding needs and priorities. A grant under this section may include fees for recording cost-share contracts under s. ATCP 50.50 (7).

**Note:** Pursuant to s. ATCP 50.40, a grant under this section may reimburse a county land conservation committee for technical assistance and other specific services which the committee provides in connection with a cost-share grant or incentive payment. Reimbursement is limited to 15% of the eligible project costs.

**(2) COUNTY REALLOCATION TO TOWN OR MUNICIPALITY.** With the department's approval, a county land conservation committee may reallocate grant funds under sub. (1) to a town or municipality, for distribution to farmers covered by a town or municipal ordinance.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.36 Nonpoint pollution abatement grants.**

**(1) GENERAL.** From the moneys remaining in the appropriations under s. 20.115 (7) (c) and (qd), Stats., after the department has made annual grant awards under ss. ATCP 50.32 and 50.34, the department may make cost-share grants to landowners or land users, or may award grants to county land conservation committees to finance cost-share grants to landowners or land users, to construct best management practices needed to comply with a DNR notice of intent or notice of discharge under s. 281.20 or ch. 283, Stats.

**(2) PRIORITY WATERSHEDS AND PRIORITY LAKE AREAS.** From the appropriation under s. 20.115 (7) (km), Stats., the department may make cost-share grants to landowners or land users, or may award grants to county land conservation committees to finance cost-share grants to landowners or land users, to construct manure management systems if both of the following apply:

**Note:** Section 20.115 (7) (km), Stats., was repealed by 1999 Wis. Act 9.

- (a) The systems are constructed in a priority watershed or priority lake area.

- (b) The systems are needed to comply with a DNR notice of discharge under ch. 283, Stats.

**Note:** The department may award grants under this subsection only for manure management systems required, in a priority watershed or priority lake area, by a DNR notice of discharge under ch. 283, Stats. The department may not award grants under this subsection for practices required by a DNR notice of intent under s. 281.20 (3), Stats., but may award grants under sub. (1) for those practices.

**(3) RECORDING FEES.** A grant under this section may include fees for recording cost-share contracts under s. ATCP 50.50 (7).

**Note:** Pursuant to s. ATCP 50.40, a grant under this section may reimburse the county for technical assistance and other specific services related to a cost-share grant or incentive payment. Reimbursement is limited to 15% of the eligible project costs.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1999, No. 522.

**ATCP 50.38 Other soil and water resource management grants. (1) FARMLAND PRESERVATION COMPLIANCE.**

From the moneys remaining in the appropriations under s. 20.115 (7) (c) and (qd), Stats., after the department has made annual grant awards under s. ATCP 50.36 (1), the department may award grants to county land conservation committees to finance either of the following:

- (a) Incentive payments to farmland owners who comply with standards under s. ATCP 50.16 (1).

- (b) Cost-share grants to farmland owners for specific practices identified in conservation plans under s. ATCP 50.18 (2) (c).

**(2) ANIMAL WASTE MANAGEMENT AND EROSION CONTROL.** From the moneys remaining in the appropriations under s. 20.115 (7) (c) and (qd), Stats., after the department has made annual grant awards under sub. (1), the department may award grants to county land conservation committees to continue animal waste management projects begun pursuant to s. 92.15, 1985 Stats., or to implement erosion control plans under s. ATCP 50.12. Grants under this subsection may include funding for cost-share grants and incentive payments to landowners or land users.

**(3) OTHER SOIL AND WATER RESOURCE MANAGEMENT PROJECTS.** From the moneys remaining in the appropriations under s. 20.115 (7) (c) and (qd), Stats., after the department has made annual grant awards under sub. (2), the department may award grants to county land conservation committees or other grant applicants to undertake other soil and water resource management activities under ch. 92 or s. 281.65 (4) (g) 5., Stats. Grants under this subsection may include funding for cost-share grants and incentive payments to landowners or land users.

**(4) RECORDING FEES.** A grant under this section may include fees for recording cost-share contracts under s. ATCP 50.50 (7).

**Note:** Pursuant to s. ATCP 50.40, a grant under this section may reimburse the county for technical assistance and other specific services related to a cost-share grant or incentive payment. Reimbursement is limited to 15% of the total paid to the landowner or land user.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.40 County services related to cost-share grants and incentive payments. (1) REIMBURSEMENT AUTHORIZED.**

The department may, as part of any grant under s. ATCP 50.34, 50.36 or 50.38 which is used to finance cost-share grants or incentive payments to landowners or land users, reimburse a county land conservation committee for specified services under sub. (2) which the committee provides in connection with those cost-share grants or incentive payments.

**(2) ELIGIBLE SERVICES.** Services eligible for reimbursement under sub. (1) include all of the following:

- (a) Technical assistance to the recipients of cost-share grants.
- (b) Certification that cost-shared projects are designed, constructed and installed according to this chapter.
- (c) Certification that the recipients of incentive payments have complied with applicable requirements for the receipt of those payments.
- (d) Project administration and supervision.

(e) Technical assistance provided in connection with a notice of discharge under ch. 283, Stats., when there is no cost-share contract between the department and the landowner or land user under this chapter. Reimbursement under this paragraph is limited to actual salary and fringe benefit costs, and may not exceed \$3,000 per notice of discharge.

(f) Other services approved by the department.

**(3) REIMBURSEMENT LIMIT.** The department shall determine the amount of any reimbursement under sub. (1). Except as may be authorized under sub. (2) (e), the department may not pay, as reimbursement to a county land conservation committee under sub. (1), an amount which exceeds 15% of that portion of the total project cost which is eligible for cost-sharing. The department may not reimburse a county land conservation committee under sub. (1) for services that are reimbursed under s. ATCP 50.32 or ch. NR 120.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.42 Grant contracts with counties and others. (1) ANNUAL WRITTEN CONTRACT REQUIRED.** The department may not make any grant to a county land conservation committee under this chapter except under an annual written contract between the department and the committee.

**(2) CONTENTS.** A contract under sub. (1) shall include all of the following:

(a) The purpose for which the grant is awarded.

(b) The total amount of the grant.

(c) Subtotal amounts designated for specific uses, such as cost-share grants or incentive payments to landowners or land users, county staffing, or reimbursement of specified county services.

(d) A general description of the types of projects for which cost-share funding is awarded under the contract, including the estimated total cost and amounts awarded for those types of projects.

(e) All terms and conditions specified under s. ATCP 50.44.

**Note:** A contract may incorporate by reference the terms and conditions specified under s. ATCP 50.44, without reproducing them in their entirety.

(f) The responsibilities of the department and the land conservation committee under the contract.

(g) Deadlines for implementing the contract.

(h) Other terms and conditions specified by the department.

**(3) CONTRACTS WITH OTHERS.** The department may not make any grant under this chapter to an applicant other than a land conservation committee, except under a written contract between the department and the grant recipient. The contract shall comply with this section and applicable provisions of s. ATCP 50.44.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.44 Grant payments to counties; contract terms. (1) GENERAL.** A county land conservation committee receiving a grant under this chapter shall comply with this chapter and the terms of the grant contract.

**(2) GRANT PAYMENTS.** The department shall pay the full amount of a grant in a single payment to a county land conservation committee. The department shall make the payment by April 15 of the year of the grant, or within 30 days after the department and the county land conservation committee sign the grant contract under s. ATCP 50.42, whichever is later.

**(3) INTEREST ON RETAINED FUNDS.** If a county land conservation committee may retain grant funds under this chapter for more than 90 days before disbursing those funds as cost-share grants or incentive payments, the committee shall place those funds in an interest-bearing account and shall use the interest accrued on those funds to further the goals of the soil and water resource management program under this chapter as determined by the land conservation committee.

**Note:** Other funds received under this chapter, such as staffing grants under s. ATCP 50.32 or cost-share grant funds held for less than 90 days before disbursement, may also be placed in an interest-bearing account.

**(4) UNSPENT OR REPAID FUNDS.** (a) Except as provided under par. (b), if a county land conservation committee does not spend all of the grant funds which it receives under this chapter in the year that those funds are scheduled to be spent, or if spent funds are repaid to the committee, the department shall deduct the amount of the unspent or repaid funds from the next year's grant allocation to the committee. The amount deducted is retained by the committee and shall only be spent according to the provisions and restrictions of the allocation plan for the next allocation year.

(b) If the department finds that the county land conservation committee's failure to spend funds under par. (a) was due to unusual circumstances beyond the committee's control, the department may allocate the amount of the unspent funds for the same or a similar project in the next year's grant allocation to the county.

**(5) AGREEMENT TO MAINTAIN EFFORT.** As a condition to the receipt of a grant under this chapter, a county board agrees to maintain or increase its expenditures for soil and water resource management activities under this chapter, as provided under s. 92.14 (7), Stats. County funds for capital expenditures and revenues from sources other than the county may not be used to reduce the county's base level of expenditures.

**(6) BREACH OF CONTRACT.** The department may withhold grant payments to a county land conservation committee, or may require the committee to return grant payments, if the department finds that the committee has violated ch. 92, Stats., or this chapter, or breached its contract with the department under s. ATCP 50.42.

**Note:** The department may seek other administrative or judicial sanctions, as appropriate. A county land conservation committee may appeal an administrative sanction under this section, to the extent provided under ch. 227, Stats.

**(7) 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. Register, November, 1996, No. 491, eff. 12-1-96.

## Subchapter V — Cost-Share Grants and Incentive Payments to Landowners and Land Users

**ATCP 50.50 Cost-share grants to landowners and land users. (1) GENERAL.** The department or a county land conservation committee may award a cost-share grant to a landowner or land user for eligible practices under subch. VI if the department or the committee finds that those practices are the most practical and cost-effective way to achieve a priority soil or water resource management goal under this chapter. A cost-share grant shall comply with applicable requirements under this subchapter.

**Note:** See also s. ATCP 50.60.

**(2) CONTRACT REQUIRED.** Whenever the department or a county land conservation committee awards a cost-share grant under this chapter to a landowner or land user, the department or committee shall enter into a written contract with that landowner or land user. The contract shall include all of the following:

(a) The name and address of the grant recipient. If the recipient is not the landowner, the contract shall also include the name and address of the landowner.

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

(c) The total amount of the cost-share grant. The total amount may not exceed the maximum amount allowed under s. ATCP 50.54 or 50.56.

(d) The location of the land on which the cost-shared practice is to be installed, and a specific legal description of the land unless the contract is exempt from recording under sub. (7) (b).

(e) Specifications for the cost-shared practice, including engineering specifications for any agricultural engineering practice identified under s. ATCP 50.95 (2).

(f) The proposed total cost of the cost-shared practice, and the percentage of that cost that will be funded under the cost-share grant. The cost-share rate may not exceed the rate allowed under s. ATCP 50.54 or 50.56.

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

(h) The conditions specified under subs. (3) to (7).

(i) An agreement that the grant recipient will operate and maintain the cost-shared practice for the period of time required under subch. VI or replace it with an equally effective practice.

(j) An agreement that the grant recipient will repay the full amount of the cost-share grant immediately, upon demand by the department, if the grant recipient fails to operate and maintain the cost-shared practice according to the contract.

(k) If the contract provides for a cost-share grant of more than \$1,000, 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. VI.

(L) Provisions authorizing the department or the county land conservation committee to stop work or withhold cost-share grant funds if the department or the committee finds that the grant recipient has violated ch. 92, Stats., or this chapter, or has breached the contract under this section.

(m) An agreement that the department or the county land conservation committee must pre-approve, according to a procedure specified in the contract, any construction changes that may affect the terms or amount of the cost-share grant.

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

**(3) DESIGN AND CONSTRUCTION STANDARDS; GENERAL.** (a) Before the department or a county land conservation committee makes any cost-share payment to a landowner or land user under this chapter, it shall determine that the cost-shared practice is all of the following:

1. Designed, constructed and installed according to applicable standards under subch. VI.

2. Constructed and installed according to the specifications included in the cost-share contract under sub. (2) (e).

(b) The department or a county land conservation committee may make partial payments under this chapter for completed portions of a cost-shared practice if the completed portions are designed, constructed and installed in compliance with par. (a), and provide independent soil and water resource management benefits. Not more than 90% of the funds for a cost-shared practice may be distributed as partial payments under this paragraph.

**(4) AGRICULTURAL ENGINEERING PRACTICES.** In the case of an agricultural engineering practice identified under s. ATCP 50.95 (2), the department or county land conservation committee shall make its findings under sub. (3) based on a written certification by one of the following:

(a) A professional engineer registered under ch. 443, Stats.

(b) An agricultural engineering practitioner certified under s. ATCP 50.95.

**(5) NUTRIENT MANAGEMENT PRACTICES.** Neither the department nor a county land conservation committee may make any cost-share payment under this chapter for nutrient management practices unless the practices are implemented pursuant to a nutrient management plan that is developed or approved by a nutrient management planner qualified under s. ATCP 50.952.

**(6) PROOF OF PAYMENT BY LANDOWNER.** Before the department or a county land conservation committee makes a cost-share payment for any portion of a cost-shared practice under this chapter, the grant recipient shall do one of the following:

(a) Provide proof that the grant recipient has paid in full for the construction and installation of that portion of the cost-shared practice.

(b) Authorize the department or county land conservation committee to make the cost-share payment with a multi-party check that includes the primary contractors as co-recipients, and provide proof of either of the following:

1. That the grant recipient has paid in full for the construction and installation of the grant recipient's portion of the cost-shared practice.

2. That funds sufficient to pay the remaining costs of installing the practice have been deposited in an escrow account approved by the department or the committee for that purpose.

**(7) CONTRACT RECORDED.** (a) Within 30 days after the installation and certification under sub. (3) of the cost-shared practices included in a cost-share contract under sub. (2), the department or committee shall record that contract in the office of the register of deeds in each county in which the property is located. No payment may be made under the contract until the contract is recorded under this paragraph.

(b) Paragraph (a) does not apply to cost-share contracts of less than \$1,000, or to cost-share contracts which include only one or more of the following practices and no others:

1. Contour farming.

2. Contour strip-cropping.

3. Field strip-cropping.

4. Conservation tillage.

5. Nutrient management.

6. Pesticide management.

7. Other practices jointly identified by the department and the land and water conservation board under this paragraph.

**(8) PAYMENT ONLY TO CONTRACTING LANDOWNER.** No contract payment under this section may be made to any person other than the contracting landowner or land user, except with the specific written authorization of that landowner or land user.

**(9) SERVICES PROVIDED BY GRANT RECIPIENT.** The department or a county land conservation committee may, as part of a cost-share grant, reimburse the grant recipient for services provided by the grant recipient in connection with the construction or installation of the cost-shared practice if the department or the committee finds both of the following:

(a) The grant recipient is competent to perform the services.

(b) The grant recipient will provide the services at an equal or lower cost than other service providers.

**(10) COUNTY COST CONTAINMENT PROCEDURES.** The county land conservation committee shall use the most cost-effective method to achieve program objectives. The committee may develop its own cost containment procedures for grants provided under this chapter. The procedures shall be reasonably consistent with the procedures used by the department under sub. (11).

**(11) DEPARTMENT COST CONTAINMENT PROCEDURES.** The department shall use the most cost-effective method to achieve program objectives. At minimum, the department shall use one or more of the following cost containment procedures when estimating and paying for a cost-shared practice:

(a) The department may make cost-share payments based on the average cost of a cost-shared practice, regardless of its actual cost. The department shall determine average costs per unit of materials and labor, or average costs of completed components, based on a survey or a review of itemized costs for cost-shared practices installed during preceding years.

(b) The department may establish an acceptable cost range for a cost-shared practice, based on past experience.

(c) The department may obtain, or may require a grant recipient to obtain, competitive bids for a cost-shared practice, using bidding procedures specified by the department. The department

may make cost-share payments based on the low bid cost of the practice, whether or not the grant recipient selects the low bidder. If the landowner or land user is required to obtain bids, the bidding procedure shall meet at least the following minimum standards:

1. There shall be at least 3 qualified bids.
2. All bids shall be sealed and delivered by the bid deadline to a location specified by the department.
3. A bid opening shall be conducted within 2 weeks after the bid deadline.
4. The amount of the cost-share grant to install the cost-shared practice shall be based on the lowest qualified bid.
5. The landowner or land user may select a contractor that submitted a higher bid only if the landowner or land user pays the difference. The landowner or land user may not select a contractor that did not bid on the project.

**Note:** A bidding procedure need not comply with par. (c) if the department uses another cost containment procedure under this subsection. For example, a procedure begun under par. (c) which fails to generate 3 qualified bids need not be completed under par. (c), but may proceed under par. (a) or (b) if the department can make an award which is based on average cost of the cost-shared practice, or which falls within an acceptable cost range for the practice.

(d) The department may specify a maximum amount which the department will pay for a cost-shared practice, regardless of the cost of that practice.

(e) The department 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 department may, for this purpose, retain the Wisconsin conservation corps or other contractors as agents of the department.

(f) The department may use other cost containment procedures determined by the department to satisfy this subsection.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.52 Incentive payments to landowners and land users. (1) GENERAL.** A county land conservation committee may make incentive payments to landowners or land users for purposes approved by the department.

**Note:** For example, a county land conservation committee may make incentive payments to owners of farmland who comply with applicable soil erosion control goals adopted by the committee under s. ATCP 50.12 (2) (b). These incentive payments may be funded through the department's annual grant allocation plan, or through other sources, or both.

(2) CONTRACT REQUIRED. Neither the department nor a county land conservation committee may make any incentive payment to a landowner or land user under this chapter, except under a written contract with that landowner or land user. The contract may be included as part of a conservation plan under s. ATCP 50.18. The contract shall include all of the following:

- (a) The name and address of the person receiving the incentive payment. If the recipient is not the landowner, the contract shall also include the name and address of the landowner.
- (b) The purpose for the incentive payment.
- (c) The amount of the incentive payment.

**Note:** An incentive payment may not exceed the maximum amount specified under s. ATCP 50.54 (7) (b).

(d) The location of the land to which the incentive payment applies.

(e) The specific conditions which the landowner or land user must meet in order to qualify for the incentive payment, including any soil or water resource management standards which the recipient must meet.

**Note:** A contract for incentive payments may be executed before the landowner or land user meets the conditions specified under par. (e). However, the landowner or land user must meet those conditions before he or she receives the incentive payment.

(f) Other conditions specified by the department or the county land conservation committee.

**Note:** The department or the county land conservation committee may, for example, require specific procedures for verifying compliance with the contract, or may require inspections or monitoring at specific intervals.

(3) VERIFYING COMPLIANCE. Before the department makes any incentive payment to a landowner or land user, the department or committee shall verify, by inspection or other reliable methods, that the landowner or land user has met all of the conditions specified under sub. (2) (e). The department or committee shall keep a record of its action under this subsection.

(4) PAYMENT ONLY TO CONTRACTING LANDOWNER. No contract payment under this section may be made to any person other than the contracting landowner or land user, except with the specific written authorization of that landowner or land user.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.54 Cost-share rates and maximum payments; general. (1) MAXIMUM COST-SHARE RATES FOR SPECIFIED PRACTICES.** Except as provided under sub. (4) or (5), or under s. ATCP 50.56, cost-share rates for the following practices may not exceed the following rates:

| PRACTICE   | COST-SHARE RATE (%) |
|--|---------------------|
| (a) Manure storage system:                                       |                     |
| 1. First \$20,000 of eligible costs . . . . .                    | 70                  |
| 2. Eligible costs over \$20,000 . . . . .                        | 50                  |
| (b) Manure storage abandonment . . . . .                         | 70                  |
| (c) Access road or cattle crossing . . . . .                     | 70                  |
| (d) Cattle mound . . . . .                                       | 70                  |
| (e) Critical area stabilization . . . . .                        | 70                  |
| (f) Diversion . . . . .  | 70                  |
| (g) Field windbreak . . . . .                                    | 70                  |
| (h) Filter strip . . . . .                                       | 70                  |
| (i) Grade stabilization structure . . . . .                      | 70                  |
| (j) Heavy use area protection . . . . .                          | 70                  |
| (k) Intensive grazing management . . . . .                       | 50                  |
| (L) Livestock fencing . . . . .                                  | 70                  |
| (m) Livestock watering facility . . . . .                        | 70                  |
| (n) Milking center waste control system . . . . .                | 70                  |
| (o) Nutrient management for up to 3 years . . . . .              | 50                  |
| (p) Pesticide management for up to 3 years . . . . .             | 50                  |
| (q) Relocating or abandoning animal feeding operations . . . . . | 70                  |
| (r) Roof . . . . .   | 70                  |
| (s) Roof runoff system . . . . .                                 | 70                  |
| (t) Sediment basin . . . . .                                     | 70                  |
| (u) Streambank and shoreline protection . . . . .                | 70                  |
| (v) Subsurface drain . . . . .                                   | 70                  |
| (w) Terrace . . . . .  | 70                  |
| (x) Underground outlet . . . . .                                 | 70                  |
| (y) Waste transfer system . . . . .                              | 70                  |
| (z) Water and sediment control basin . . . . .                   | 70                  |
| (za) Waterway system . . . . .                                   | 70                  |
| (zb) Well abandonment . . . . .                                  | 70                  |
| (zc) Wetland development or restoration . . . . .                | 70                  |
| (zd) Animal trails and walkways . . . . .                        | 70                  |

(2) CROPPING PRACTICES; COST-SHARE PAYMENTS ALLOWED. A cost-share grant may include any of the following:

- (a) One payment of up to \$ 9 per acre for contour cropping.
- (b) One payment of up to \$ 13.50 per acre for strip-cropping.
- (c) One payment of up to \$ 7.50 per acre for field strip-cropping.

(d) Payments of up to \$ 18.50 per acre per year, for up to 3 years, for high residue management systems. The department or a county land conservation committee may combine, in a single payment, payments for 2 or more years.

(e) In addition to any payments made under pars. (a) to (c), a payment of up to 50% of the necessary costs for removing obstructions or installing subsurface drains.

(3) OTHER PRACTICES; MAXIMUM COST-SHARE RATES. The department shall determine maximum cost-share rates for practices not listed under sub. (1) or (2).

(4) PRACTICES NEEDED TO COMPLY WITH SHORELAND MANAGEMENT ORDINANCE; HIGHER COST-SHARE RATE ALLOWED. Except as provided under s. ATCP 50.56, the maximum cost-share rate for a practice under sub. (1) that is needed to comply with a shoreland management ordinance adopted under s. 92.17, Stats., is 80%. This subsection does not apply to a manure storage system or milking center waste control system under sub. (1) (a) or (n).

(5) PRACTICES NEEDED TO COMPLY WITH NOTICES OF DISCHARGE IN PRIORITY WATERSHEDS AND PRIORITY LAKE AREAS; REDUCED COST-SHARE RATE. The maximum cost-share rate for a practice under sub. (1) or (4) or s. ATCP 50.56 is reduced by one-half if all of the following apply:

(a) The practice is needed to comply with a notice of discharge issued under ch. 283, Stats.

(b) The notice of discharge under par. (a) is issued for a critical site designated under s. 281.65, Stats.

(c) The cost-share agreement is executed after the cost-share grant eligibility period under s. 281.65 (8) (jm), Stats., has expired.

(6) ENGINEERING DESIGN SERVICES; ADDITIONAL PAYMENT. The department or a county land conservation committee may, in addition to paying a cost-share percentage allowed under this subchapter, reimburse a landowner or land user a pre-approved amount for engineering services, other than those provided by the land conservation committee, that are needed to design and certify the cost-shared practice. These services may be provided by a professional engineer registered under ch. 443, Stats., or by an agricultural engineering practitioner certified at the applicable rating under s. ATCP 50.95. The amount of reimbursement for engineering services under this subsection may not exceed 70% of the actual cost of the engineering services, or 15% of the total cost of the designed practice that is eligible for cost-sharing, whichever is less. A payment for engineering design services under this subsection may exceed the maximum amounts specified under sub. (7) (d) and s. ATCP 50.56 (3).

(7) MAXIMUM GRANT AMOUNTS. (a) No cost-share grant under this chapter may exceed \$25,000 except with the department's specific written authorization.

(b) No annual incentive payment under this chapter may exceed \$1,000 except with the department's specific written authorization.

(c) 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.

(d) Except as provided under s. ATCP 50.56, combined payments by all government entities for a manure storage system may not exceed \$35,000.

**Note:** A manure management system may include several components including, but not limited to, a manure storage system. The \$35,000 limitation under par. (d) applies only to the manure storage system component. Combined payments for an entire manure management system may exceed \$35,000.

(e) A cost-share grant for intensive grazing management under s. ATCP 50.76 may not include more than \$2,000 for a watering system.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96; cr. (1) (zd), Register, June, 1999, No. 522, eff. 7-1-99.

**ATCP 50.56 Economic hardship; cost-share rates and maximum payments.** (1) HIGHER COST-SHARE RATE ALLOWED. The department or county land conservation committee may make cost-share payments for the following practices at

the following maximum cost-share rates if the department makes all of the written findings under sub. (2):

| PRACTICE  | COST-SHARE RATE (%) |
|---|---------------------|
| (a) Manure storage system; general  |                     |
| 1. First \$20,000 of eligible costs . . . . .   | 85                  |
| 2. Eligible costs over \$20,000 . . . . .   | 75                  |
| (b) Manure storage system required to comply with shoreland management zoning ordinance enacted under s. 92.17, Stats. 90               |                     |
| (c) Barnyard runoff control system; general   |                     |
| 1. First \$20,000 of eligible costs . . . . .   | 85                  |
| 2. Eligible costs over \$20,000 . . . . .   | 75                  |
| (d) Barnyard runoff control system required to comply with shoreland management zoning ordinance enacted under s. 92.17, Stats. . . . . | 90                  |

(2) FINDINGS REQUIRED. The department or county land conservation committee may not make a payment under sub. (1) unless the department makes all of the following findings in writing, based on documentation filed with the department:

(a) The practice is required in order for a landowner or land user to comply with a notice of discharge issued under ch. 283, Stats., or a shoreland management zoning ordinance enacted under s. 92.17, Stats.

(b) The grant recipient has a debt-to-asset ratio of more than 60% as verified by a signed statement from a certified public accountant.

(c) The grant recipient will be able to pay the balance of the estimated costs of the practice. A finding under this paragraph shall be based on a signed statement from an accredited financial institution or a certified public accountant.

(d) The practice is the least expensive way to attain compliance with the notice of discharge or the shoreland management zoning ordinance.

(3) MAXIMUM PAYMENTS. The department or land conservation committee may not make a cost-share grant under sub. (1) for a manure storage system if combined payments for that system by all government entities will exceed \$45,000.

**Note:** See note under s. ATCP 50.54 (7) (d). In economic hardship situations, the \$45,000 limitation under sub. (3) applies only to the manure storage system component of the manure management system. Combined payments for an entire manure management system may exceed \$45,000.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

### Subchapter VI — Practices Eligible for Cost-Share Grants

**ATCP 50.60 General.** (1) ELIGIBLE PRACTICES. The department or a county land conservation committee may award a cost-share grant under this chapter for either of the following:

(a) Practices identified under this subchapter if the department or committee finds that those practices are the most practical and cost-effective way to achieve a priority soil or water resource management goal under this chapter. Neither the department nor the county land conservation committee may award a cost-share grant for any costs for which another governmental entity has reimbursed the grant recipient.

**Note:** A grant recipient may receive grants from 2 or more governmental entities related to the same project, provided that the grant recipient does not receive duplicate reimbursement of the same costs.

(b) Other cost-effective practices, standards and specifications which the department specifically approves.

**Note:** See also s. ATCP 50.50. In determining the cost-effectiveness of a proposed project, the department or the land conservation committee must consider the predicted soil and water resource benefits of the project, the cost of the project amortized over its expected useful life, and the practical effects of the project on the agricultural operation.

(2) INELIGIBLE PRACTICES. Neither the department nor a county land conservation committee may make a cost-share grant under this chapter for a practice which does any of the following:

(a) Destroys wetlands, as defined in s. 23.32, Stats.

(b) Destroys significant wildlife habitat, as determined by the land conservation committee or the DNR, unless the grant recipient agrees to restore the habitat at his or her expense.

**(3) CONSTRUCTION SITE MANAGEMENT.** A practice is not eligible for a cost-share grant under this chapter unless it is constructed in compliance with applicable construction site erosion control practice standards and specifications contained in the DNR Wisconsin construction site best management practice handbook, DNR Pub. WR-222 (April 1994).

**Note:** Copies of the DNR construction site best management practice handbook are on file at the department, DNR, the secretary of state and the revisor of statutes. Copies may be purchased from DNR or the department.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

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

(a) "Animal feeding operation" has the meaning given in s. ATCP 50.81 (1), and includes 2 or more animal feeding operations owned by the same person if those operations are adjacent to each other or share a common waste disposal area or system.

(b) "Manure management system" means a system of one or more practices, facilities, techniques or measures used to prevent 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 50.80 (1) (a).
4. Manure storage system abandonment as defined in s. ATCP 50.63 (1) (b).

(c) "Manure storage facility" means one or more manure storage structures. "Manure storage facility" includes equipment 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 vessel used to contain and store manure on a temporary basis. "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.
2. Nutrient management as defined in s. ATCP 50.80 (1) (a).
3. A barnyard runoff control system as defined in s. ATCP 50.64 (1).
4. Equipment used to apply manure to land.

**(2) DEPARTMENT COST-SHARE GRANT.** The department may award a cost-share grant for a manure storage system if the department finds that the system is needed in order for a landowner or land user to comply with a DNR notice of discharge under ch. 283, Stats., or a shoreland management ordinance adopted under s. 92.17, Stats.

**Note:** Whenever DNR issues a notice of discharge under ch. 283, Stats., to a farmer who operates an animal feeding operation, the department will notify the farmer that the farmer may apply to the department for a cost-share grant for practices needed to comply with the DNR notice of discharge. Often, the department (or the county land conservation committee, at the request of the department) will also inspect the animal feeding operation and recommend cost-effective measures that the farmer may take to comply with the DNR notice. A county may contract with the department to disburse cost-share grant funds to a landowner or land user.

**(3) COUNTY COST-SHARE GRANT UNDER A SHORELAND MANAGEMENT ORDINANCE.** A county land conservation committee may not award a cost-share grant for a manure storage system unless the department authorizes the cost-share grant after finding all of the following:

(a) The system is needed to comply with a shoreland management ordinance adopted under s. 92.17, Stats.

(b) Construction of the system is covered by a county, town or municipal ordinance under s. 92.16, Stats.

**(4) GRANTS FOR MANURE STORAGE SYSTEMS; DISQUALIFYING CONDITIONS.** Neither the department nor a county land conservation committee may award a cost-share grant for a manure storage system if the department finds any of the following:

(a) The grant applicant intentionally aggravated a pollution discharge from the animal feeding operation.

(b) The grant applicant could prevent the discharge of pollutants through improved management practices at nominal cost.

(c) The manure storage system will not be adequate to achieve compliance with the DNR notice of discharge, or with the shoreland management ordinance.

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

(e) The compliance deadline specified in the DNR notice of discharge has passed, or DNR has withdrawn the notice. Eligibility may be extended or restored to a grant applicant if the department, the DNR and the grant applicant agree to the extension or restoration.

(f) The grant recipient could have prevented the discharge of pollutants by complying with an operations and maintenance plan previously agreed upon by the grant recipient and one of the following:

1. The department.
2. The county land conservation committee.
3. The DNR.
4. The NRCS.

(g) The pollution discharge resulted from the grant applicant's violation of a local manure storage ordinance or shoreland management ordinance.

**(5) MANURE STORAGE SYSTEMS; ELIGIBLE COSTS.** A cost-share grant under this section may reimburse any of the following costs related to a manure storage system:

- (a) Costs to design, construct, repair or reconstruct the system.
- (b) Costs to purchase and install permanent fencing needed to protect the system.
- (c) Abandonment of the system if required to meet water quality objectives.

**(6) MANURE STORAGE SYSTEMS; INELIGIBLE COSTS.** A cost-share grant under this section may not reimburse any of the following costs:

- (a) Costs to design a manure storage system that is not constructed, except as authorized under s. ATCP 50.40 (2) (e).
- (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 50.82.
- (c) Costs for equipment used to apply manure to land.

(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 technical guide nutrient management standard 590 without causing or aggravating a water quality problem. This paragraph does not apply to the repair or modification of an existing manure storage system if all of the following apply:

1. The repair or modification is needed to meet water quality objectives.
2. The system, except for that portion needing repair or modification, is fully operational.
3. The grant recipient has made a substantial investment in the system, and will lose that investment if the system is not repaired or modified.

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

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

(f) Manure storage system costs incurred to comply with a DNR notice of discharge or a shoreland management ordinance if compliance could be achieved at lower cost by other methods, unless the grant recipient agrees to pay the cost difference.

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

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

**(7) MANURE STORAGE SYSTEMS; DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant under this section 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 to store the manure produced by the animal feeding operation over a normal period of 30 to 210 days, as verified by a nutrient management plan or an operation and maintenance plan. If the grant applicant chooses a system with additional capacity, the cost-share grant will be prorated based on the eligible capacity.

(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 is incorporated into the soil within 3 days after it is applied to land.

(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. Technical guide waste management system standard 312.
2. Technical guide waste storage facility standard 313.
3. Technical guide manure transfer standard 634.
4. Technical guide waste treatment lagoon standard 359.
5. Technical guide fencing standard 382.
6. Technical guide heavy use area protection standard 561.
7. Other standards specified by the department.

(f) The grant recipient establishes a nutrient management plan that complies with technical guide nutrient management standard 590, and agrees to comply with that plan and maintain the manure storage system for 10 years unless the animal feeding operation is discontinued.

**History:** Cf. Register, November, 1996, No. 491, eff. 12-1-96; am. (7) (e) 2. and 3., r. (7) (e) 6., Register, June, 1999, No. 522, eff. 7-1-99; correction in (7) (e) made under s. 13.93 (2m) (b) 1., Stats., Register, June, 1999, No. 522.

### **ATCP 50.63 Manure storage system abandonment.**

**(1) DEFINITIONS.** In this section:

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

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

**(2) WHEN ELIGIBLE.** A cost-share grant may reimburse costs to abandon a manure storage system if any of the following conditions exist:

(a) The manure storage system fills with groundwater.

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

**(3) ELIGIBLE COSTS.** A cost-share grant may reimburse any of the following costs related to the abandonment of 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 abandoned site.

**(4) INELIGIBLE COSTS.** A cost-share grant under this section 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 STANDARDS.** A cost-share grant may not reimburse any costs related to the abandonment of a manure storage system unless the abandonment plan is approved by the department, or the abandonment plan complies with the provisions of an ordinance approved by the department under s. ATCP 50.964 as meeting the requirements of s. ATCP 50.96 (10).

**Note:** Manure storage ordinances and manure storage abandonment plans may be submitted to the department for review and approval under s. ATCP 50.964.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

### **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 roads or cattle crossings under s. ATCP 50.66.

(b) Cattle mounds under s. ATCP 50.67.

(c) Critical area stabilization under s. ATCP 50.70.

(d) Diversions under s. ATCP 50.71.

(e) Filter strips or buffer strips under s. ATCP 50.73.

(f) Heavy use area protection under s. ATCP 50.75.

(g) Intensive grazing management under s. ATCP 50.76.

(h) Lined or grassed waterways under s. ATCP 50.92.

(i) Livestock fencing under s. ATCP 50.77.

(j) Livestock watering facilities under s. ATCP 50.78.

(k) Manure storage systems under s. ATCP 50.62 that are needed to collect and contain barnyard runoff.

(L) Nutrient and pesticide management under s. ATCP 50.80.

(m) Relocating or abandoning animal feeding operations under s. ATCP 50.81.

(n) Roofs under s. ATCP 50.82.

(o) Roof runoff systems under s. ATCP 50.83.

(p) Sediment basins under s. ATCP 50.84.

(q) Streambank and shoreline protection under s. ATCP 50.85.

(r) Subsurface drains under s. ATCP 50.87.

(s) Underground outlets under s. ATCP 50.89.

(t) Waste transfer systems under s. ATCP 50.90.

(u) Water and sediment control basins under s. ATCP 50.91.

(v) Well abandonment under s. ATCP 50.93.

(w) Animal trails and walkways under s. ATCP 50.665.

**(2) DEPARTMENT COST-SHARE GRANT.** The department may award a cost-share grant for a barnyard runoff control system if the department finds that the system is needed in order for a landowner or land user to comply with a DNR notice of discharge under ch. 283, Stats., or a shoreland management ordinance adopted under s. 92.17, Stats.

**(3) COUNTY COST-SHARE GRANT UNDER A SHORELAND MANAGEMENT ORDINANCE.** A county land conservation committee may not award a cost-share grant for a barnyard runoff control system unless the department authorizes the cost-share grant after finding that the practice or system is needed to comply with a shoreland management ordinance adopted under s. 92.17, Stats.

**Note:** Only the department may award a grant for a barnyard runoff control system which is needed to comply with a DNR notice of discharge. In addition, the department must specifically authorize a county land conservation committee to award a grant for a barnyard runoff control system needed to comply with a shoreland management ordinance.

**(4) GRANTS FOR BARNYARD RUNOFF CONTROL SYSTEMS; DISQUALIFYING CONDITIONS.** Neither the department nor a county land conservation committee may award a cost-share grant for a barnyard runoff control system if the department finds any of the following:

(a) The grant applicant intentionally aggravated a pollution discharge from the animal feeding operation.

(b) The grant applicant 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 the DNR notice of discharge, or with the shoreland management ordinance.

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

(e) The compliance deadline specified in the DNR notice of discharge has passed, or DNR has withdrawn the notice. Eligibility may be extended or restored to a grant applicant if the department, the DNR and the grant applicant agree to the extension or restoration.

(f) The grant recipient could have prevented the discharge of pollutants by complying with an operations and maintenance plan previously agreed upon by the grant recipient and one of the following:

1. The department.
2. The county land conservation committee.
3. The DNR.
4. The NRCS.

(g) The pollution discharge resulted from a violation of a local shoreland management ordinance by the grant applicant.

**(5) ELIGIBLE COSTS.** A cost-share grant 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.

**(6) INELIGIBLE COSTS.** A cost-share grant under this section may not reimburse any of the following costs:

(a) Costs to design a barnyard runoff control system that is not constructed, except as authorized under s. ATCP 50.40 (2) (e).

(b) Costs to construct or modify a building. This paragraph does not apply to a modification that is essential for the installation of a barnyard runoff control system, or to construction of a roof pursuant to s. ATCP 50.82.

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

(d) Costs of practices or systems if an alternative management practice or technique could achieve compliance with the DNR notice of discharge or the shoreland management ordinance at a lower cost. If the grant applicant chooses to implement a higher cost practice or system with equivalent resource protection, the department or the county land conservation committee may award a cost-share grant based on the lower cost alternative.

(e) Any barnyard runoff control system costs related to changes in livestock numbers, housing or management practices

that occurred within 3 years of the grant application date. The department or county land conservation committee may award a cost-share grant for practices or systems based on the costs to correct the discharge occurring prior to the change.

(f) Any barnyard runoff control system costs related to anticipated changes in livestock numbers, housing or management.

**(7) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant may not reimburse any costs related to 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.

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

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

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96; cr. (1) (w), Register, June, 1999, No. 522, eff. 7-1-99.

#### **ATCP 50.66 Access roads and cattle crossings.**

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

**(2) ELIGIBLE COSTS.** A cost-share grant may reimburse the cost of establishing an access road or cattle crossing when necessary to meet resource protection goals.

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

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

1. Technical guide access road standard 560.
2. Technical guide streambank and shoreline protection standard 580.
3. Technical guide fencing standard 382.

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

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

#### **ATCP 50.665 Animal trails and walkways. (1) DEFINITION.**

In this section "animal trail or walkway" means a travel lane to facilitate movement of livestock.

**(2) ELIGIBLE COSTS.** A cost-share grant may reimburse the cost of establishing an animal trail or walkway when necessary to meet resource protection goals.

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

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

1. Technical guide animal trails and walkways standard 575.
2. Technical guide streambank and shoreline protection standard 580.
3. Technical guide fencing standard 382.

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

**History:** Cr. Register, June, 1999, No. 522, eff. 7-1-99.

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

**(2) WHEN ELIGIBLE.** A cost-share grant may reimburse the cost of establishing a cattle mound if all of the following conditions are met:

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

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

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

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

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

**(5) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant may not reimburse the cost of establishing a cattle mound unless all of the following conditions are met:

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

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

(c) The grant recipient does both of the following:

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

2. Agrees to convert all abandoned areas under subd. 1. to uses compatible with water quality goals.

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

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

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.68 Conservation tillage. (1) DEFINITION.** In this section, "conservation tillage" means either 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 may reimburse, for up to 3 years, costs for any of the following conservation tillage practices:

(a) No-till practices.

(b) Chisel plowing.

(c) Disking.

(d) Till-planting practices.

(e) Other, similar practices.

**(3) COSTS BASED ON PREVAILING CHARGES FOR CUSTOM TILLAGE.** The department or the county land conservation committee

shall determine conservation tillage costs based on prevailing prices charged by providers of custom conservation tillage services in the surrounding area.

**(4) CURRENT PRACTITIONERS NOT ELIGIBLE FOR GRANTS.** A landowner or land user who is already using a satisfactory conservation tillage system is not eligible for a conservation tillage cost-share grant under this section.

**(5) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant may not reimburse conservation tillage costs unless all of the following conditions are met:

(a) Land subject to conservation tillage is protected from erosion from the time of harvest until after the next planting. Protection may be provided by a cover crop residue or temporary cover or other 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 conservation tillage complies with technical guide conservation tillage standard 329.

(d) The grant recipient agrees to continue the conservation tillage system, or to protect the land with close-growing crops such as grasses or legumes, for 3 years unless farming operations on the affected land are discontinued.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.69 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 may reimburse costs to establish a contour farming system, including necessary costs to remove obstacles and install subsurface drains.

**(3) CURRENT PRACTITIONERS NOT ELIGIBLE FOR GRANTS.** A landowner or land user who is already using a satisfactory contour farming system is not eligible for a contour farming cost-share grant under this section.

**(4) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant may not reimburse contour farming costs unless all of the following conditions are met:

(a) The contour farming system complies with all of the following that apply:

1. Technical guide contour farming standard 330.

2. Technical guide obstruction removal standard 500.

3. Technical guide subsurface drain standard 606.

(b) The grant recipient agrees to maintain the contour farming system or protect the land with close growing crops such as grasses or legumes for 5 years, or for 10 years if the system requires subsurface drainage, unless farming operations on the affected land are discontinued.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

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

**(2) ELIGIBLE COSTS.** A cost-share grant 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. Trees planted with cost-share funds may not be harvested commercially for 10 years.

(c) Preparatory shaping and smoothing operations.

**(3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant 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. Technical guide critical area planting standard 342.
2. Technical guide fencing standard 382.
3. Technical guide field border standard 386.
4. Technical guide livestock exclusion standard 472.
5. Technical guide mulching standard 484.
6. Technical guide tree planting standard 612.

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

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.71 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. “Diversion” includes a channel with a supporting earthen ridge on the lower side, constructed across the slope with a self-discharging and non-erosive gradient.

**(2) ELIGIBLE COSTS.** A cost-share grant 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. Trees planted with cost-share funds may not be harvested commercially for 10 years.

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

**(3) INELIGIBLE COSTS.** A cost-share grant 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 STANDARDS.** A cost-share grant 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. Technical guide critical area planting standard 342.
2. Technical guide dike standard 356.
3. Technical guide diversion standard 362.
4. Technical guide fencing standard 382.
5. Technical guide grassed waterway standard 412.
6. Technical guide lined waterway or outlet standard 468.
7. Technical guide obstruction removal standard 500.
8. Technical guide subsurface drain standard 606.
9. Technical guide underground outlet standard 620.

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

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.72 Field windbreaks. (1) DEFINITION.** In this section, “field windbreak” means a strip or belt of trees, shrubs or grasses established or restored 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 may reimburse the cost of planting trees, shrubs or grasses to protect farm fields from wind erosion.

**(3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant 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. Technical guide fencing standard 382.
2. Technical guide field windbreaks standard 392.
3. Technical guide livestock exclusion standard 472.

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

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.73 Filter strips. (1) ELIGIBLE COSTS.** A cost-share grant 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.

**(2) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant 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. Technical guide critical area planting standard 342.
2. Technical guide fencing standard 382.
3. Technical guide field border standard 386.
4. Technical guide filter strip standard 393.
5. Technical guide livestock exclusion standard 472.
6. Technical guide mulching standard 484.

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

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.74 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 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 STANDARDS. A cost-share grant 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 pre-approves the structure in writing 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. Technical guide critical area planting standard 342.
2. Technical guide diversion dam standard 348.
3. Technical guide sediment basin standard 350.
4. Technical guide dike standard 356.
5. Technical guide fencing standard 382.
6. Technical guide floodway standard 404.
7. Technical guide grade stabilization structure standard 410.
8. Technical guide grassed waterway standard 412.
9. Technical guide lined waterway or outlet standard 468.
10. Technical guide mulching standard 484.
11. Technical guide subsurface drain standard 606.
12. Technical guide underground outlet standard 620.
13. Technical guide water and sediment control basin standard 638.

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

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.75 Heavy use area protection. (1) DEFINITION.** In this section, "heavy use area protection" means installation of surface material to control runoff and erosion in areas subject to concentrated or frequent livestock activity. "Heavy use area protection" may include establishing vegetative cover, or installing surfacing materials such as concrete, compacted stone and stone fragments, or geotextiles.

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

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

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

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

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

(3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-share grant may not reimburse the cost of heavy use area protection unless all of the following conditions are met:

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

1. Technical guide critical area planting standard 342.
  2. Technical guide fencing standard 382.
  3. Technical guide heavy use area protection standard 561.
  4. Technical guide waste management system standard 312.
- (b) The grant recipient agrees to maintain the heavy use area protection for 10 years unless farming operations on the affected land are discontinued.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.76 Intensive grazing management. (1) DEFINITION.** In this section, "intensive grazing management" 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.

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

(2) ELIGIBLE COSTS. A cost-share grant may reimburse the cost of replacing animal lots or pastures, or establishing an intensive grazing management system on croplands, that are currently contributing 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 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, and portable watering systems such as pumps, pipes and tanks.

**Note:** According to s. ATCP 50.54 (7) (e), a cost-share grant under this section may not include more than \$2000 for a watering system.

(3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-share grant may not reimburse intensive grazing management costs unless all of the following conditions are met:

(a) The intensive grazing management practices comply with all of the following that apply:

1. Technical guide critical area planting standard 342.
2. Technical guide pasture and hayland planting standard 512.
3. Technical guide pasture and hayland management standard 510.
4. Technical guide livestock exclusion standard 472.
5. Technical guide streambank and shoreline protection standard 580.
6. Technical guide heavy use area protection standard 561.
7. Guidelines specified in "Wisconsin pastures for profit: a hands on guide to rotational grazing," published by the university of Wisconsin-extension, August 1994.

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

8. Technical guide animal trails and walkways standard 575.

(b) The grant recipient agrees to maintain the intensive grazing management practices for 10 years unless farming operations on the affected land are discontinued.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96; cr. (3) (a) 8., Register, June, 1999, No. 522, eff. 7-1-99.

**ATCP 50.77 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 this section may reimburse costs for livestock fencing, including the cost of designing and installing permanent fencing, gates and related devices.

(3) INELIGIBLE COSTS. A cost-share grant under this section 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 to protect an erodible area or a practice under this subchapter.

**(4) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant 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. Technical guide fencing standard 382.
2. Technical guide livestock exclusion standard 472.

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

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.78 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) WHEN ELIGIBLE.** A cost-share grant may reimburse costs to establish a livestock watering facility if the livestock watering facility is a necessary component of an intensive grazing management system funded under s. ATCP 50.76, or if all of the following conditions are met:

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

1. Prevent nonpoint source 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 practice under this subchapter.

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

(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 this section may reimburse the cost of designing and constructing a livestock watering facility.

**(4) INELIGIBLE COSTS.** A cost-share grant under this section 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 an intensive grazing management system.

**Note:** Under s. ATCP 50.54 (7) (e), there is a \$2000 cap on the maximum amount that may be reimbursed for a livestock watering system in intensive grazing management. The system may contain one or more watering facilities.

(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 STANDARDS.** 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. Technical guide spring development standard 574.
2. Technical guide trough and tank standard 614.
3. Technical guide well standard 642.
4. Technical guide pipeline standard 516.
5. Chapter NR 812, related to well construction and pump installation.

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

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.79 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) WHEN ELIGIBLE.** (a) The department may award a cost-share grant for a milking center waste control system if that system is constructed in conjunction with a manure management system needed to comply with a DNR notice of discharge under ch. 283, Stats.

(b) A county land conservation committee may not award a cost-share grant for a milking center waste control system, except as authorized by the department under par. (a).

**(3) ELIGIBLE COSTS.** A cost-share grant 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, pre-cooler water utilization systems, manifold cleaning systems, air injection systems, filter strips used with appropriate waste pretreatment measures, recyclable water storage and plumbing for automatic water and cleaning chemicals controls, waste milk diverter valves and booster pumps for parlor floor cleaning.

**(4) INELIGIBLE COSTS.** A cost-share grant 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.

**(5) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** 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. The university of Wisconsin-extension pollution control guide for milking center waste water management (July 1994).

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

2. Technical guide filter strip standard 393.
3. Technical guide irrigation system standard 442.
4. Technical guide waste storage facility standard 313.
5. Technical guide manure transfer standard 634.
6. Technical guide nutrient management standard 590.

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

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96; am. (5) (a) 4. and 5., r. (5) (a) 7., Register, June, 1999, No. 522, eff. 7-1-99.

**ATCP 50.80 Nutrient and pesticide management. (1) DEFINITIONS.** In this section:

(a) "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.

(b) "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: GENERAL.** A cost-share grant may reimburse, for up to 3 years, any of the following costs related to nutrient and pesticide 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 for integrated pest management field scouting.

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

**Note:** The 3 years of reimbursement for nutrient and pesticide management need not be 3 consecutive years.

(3) **DESIGN AND MAINTENANCE REQUIREMENTS.** A cost-share grant may not reimburse nutrient or pesticide management costs under sub. (1) or (2) unless all of the following conditions are met:

(a) The nutrient or pesticide management practices comply with all of the following that apply:

1. Technical guide nutrient management standard 590.
2. Technical guide pesticide management standard 595.
3. Pesticide mixing and loading standards under ss. ATCP 29.45 and 29.46.

(b) The grant recipient agrees to maintain the nutrient or pesticide management practices for each year of reimbursement unless farming operations on the affected land are discontinued.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96; correction in (3) (a) 3., made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1999, No. 522.

**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.

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

(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) **WHEN ELIGIBLE.** A cost-share grant 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 water quality objectives.

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

(c) The owner of the abandoned animal feeding operation agrees, in a covenant that runs with the land, that no person may reestablish an animal feeding operation at that site. The depart-

ment 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 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 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.

**Note:** Cost-share grants under this section are subject to the limitations specified in s. ATCP 50.54 (7) (c).

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.82 Roofs. (1) DEFINITIONS.** In this section:

(a) "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. "Roof" does not include, except in the case of a manure storage structure, a covering over an enclosed structure if the sum of the length of the walls of the structure exceeds 50% of the perimeter of the covering. If a structure includes 2 or more square or rectangular areas, the ratio of wall length to covering perimeter shall be separately calculated for each square or rectangular area, excluding common sides.

(b) "Wall" means a vertical expanse in which more than 50% of the opening from eave to floor or ground is composed of a solid building material. The building material need not be rigid.

(2) **WHEN ELIGIBLE.** A cost-share grant may reimburse the cost of constructing a roof if the department or the county land conservation committee finds that the roof construction is the most practical and cost-effective way to achieve water quality objectives.

(3) **ELIGIBLE COSTS.** A cost-share grant may reimburse the cost of designing and constructing a roof that is necessary to prevent barnyard runoff or discharges from a manure storage structure.

(4) **INELIGIBLE COSTS.** A cost-share grant under this section may not reimburse costs to install any of the following:

- (a) Any costs to install walls or to enclose a roofed area.

- (b) Any costs to design or construct a building or structure other than a roof.

(5) **DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant may not reimburse the cost of installing a roof unless all of the following conditions are met:

- (a) The roof complies with the american society of agricultural engineers engineering practice number 288.5, December 1992 edition.

**Note:** Copies of ASAE EP 288.5 are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from the department.

- (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 grant recipient agrees not to establish additional outdoor animal lots on the site, except with adequate runoff control practices approved by the department.

(e) The grant recipient agrees not to convert a roofed animal lot structure, cost-shared under this chapter, for use other than as an animal lot.

(f) The grant recipient agrees to maintain the roof for 10 years unless farming operations on the affected land are discontinued.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96; am. (5) (a), Register, June, 1999, No. 522, eff. 7-1-99.

**ATCP 50.83 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 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 this section may not reimburse the costs for structures which divert water to areas not adequately protected from erosion.

**(4) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant 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. Technical guide roof runoff management standard 558.
2. Technical guide underground outlet standard 620.

(b) The grant recipient agrees to maintain the roof runoff system for 10 years unless farming operations on the affected land are discontinued.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.84 Sediment basins. (1) DEFINITION.** In this section, "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.

**(2) ELIGIBLE COSTS.** A cost-share grant 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 this section 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.

**(4) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant 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. Technical guide waste management system standard 312.
2. Technical guide critical area planting standard 342.
3. Technical guide sediment basin standard 350.
4. Technical guide manure transfer standard 634.
5. Technical guide fencing standard 382.
6. Technical guide filter strip standard 393.
7. Technical guide heavy use area protection standard 561.

8. Technical guide underground outlet standard 620.

(c) The grant recipient agrees to maintain the sediment basin for 10 years unless farming operations on the affected land are discontinued.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96; am. (4) (b) 4, Register, June, 1999, No. 522, eff. 7-1-99.

**ATCP 50.85 Streambank and shoreline protection.**

**(1) DEFINITION.** In this section, "streambank and shoreline protection" means using vegetation or structures to stabilize and protect the banks of streams, lakes, estuaries or excavated channels against scour and erosion.

**(2) ELIGIBLE COSTS.** A cost-share grant may reimburse any of the following costs related to streambank and shoreline protection:

(a) Costs for permanent fencing to protect streambanks and shorelines from damage by livestock.

(b) Costs to install 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 used to establish fish habitat as part of a streambank and shoreline protection scheme, provided that reimbursement for fish habitat does not exceed 25% of the cost-share grant.

**Note:** Lunker structures, or rock and timber riprap, are sometimes used to create fish habitat.

(c) Costs to shape streambanks or shorelines before installing protective plantings or structures.

(d) Costs to construct or modify stream crossings.

(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.

**Note:** Costs may also be reimbursed for vegetative buffers, buffer strips or buffer zones. These practices may be installed according to locally determined standards subject to review and approval by the department. The practice standards in sub. (3) must also be met.

(f) Costs for water pumps or other facilities that deliver water to livestock so that livestock can be excluded from surface waters. Well construction costs may not be reimbursed under a cost-share grant unless well construction is the most cost-effective way to deliver water to livestock.

**(3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant 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. Technical guide critical area planting standard 342.
2. Technical guide fencing standard 382.
3. Technical guide streambank and shoreline protection standard 580.
4. Technical guide tree planting standard 612.

(b) DNR pre-approves the streambank or shoreline protection project in writing if the project will create banks higher than 15 feet, measured from the stream or lake bed.

(c) The grant recipient agrees to maintain the streambank or shoreline protection for 10 years unless farming operations on the affected land are discontinued.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.86 Strip-cropping. (1) DEFINITION.** In this section, "strip-cropping" 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 may reimburse the cost of establishing a strip-cropping system, including costs for the necessary removal of obstructions or for the necessary installation of subsurface drains.

**(3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant may not reimburse the cost of establishing a strip-cropping system unless all of the following conditions are met:

(a) The strip-cropping operations are performed, to the maximum extent feasible, on the contour.

(b) The strip-cropping system complies with all of the following that apply:

1. Technical guide obstruction removal standard 500.
2. Technical guide contour strip-cropping standard 585.
3. Technical guide field strip-cropping standard 586.
4. Technical guide wind strip-cropping standard 589.
5. Technical guide subsurface drain standard 606.

(c) The grant recipient agrees to maintain the strip-cropping system for 10 years unless farming operations on the affected land are discontinued.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.87 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 may reimburse the cost of designing and constructing a subsurface drain as part of a manure storage system, barnyard runoff control system, or erosion control system.

**(3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** 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 or erosion control system.

(b) The subsurface drain complies with all of the following that apply:

1. Technical guide subsurface drain standard 606.
2. Technical guide underground outlet standard 620.

(c) The grant recipient agrees to maintain the subsurface drain for 10 years unless farming operations on the affected land are discontinued.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.88 Terrace systems. (1) DEFINITION.** In this section, "terrace system" means a system of ridges and channels constructed on the contour with a non-erosive grade and suitable spacing.

**(2) ELIGIBLE COSTS.** A cost-share grant 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 STANDARDS.** 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. Technical guide critical area planting standard 342.

2. Technical guide grassed waterway standard 412.

3. Technical guide lined waterway or outlet standard 468.

4. Technical guide obstruction removal standard 500.

5. Technical guide terrace standard 600.

6. Technical guide subsurface drain standard 606.

7. Technical guide underground outlet standard 620.

8. Technical guide water and sediment control basin standard 638.

(c) The grant recipient agrees to maintain the terrace system for 10 years unless farming operations on the affected land are discontinued.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.89 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 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 STANDARDS.** A cost-share grant 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. Technical guide subsurface drain standard 606.
2. Technical guide underground outlet standard 620.

(c) The grant recipient agrees to maintain the underground outlet for 10 years unless farming operations on the affected land are discontinued.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.90 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 and milking center wastes from buildings and animal feeding operations to a storage structure, loading area or treatment area.

**(2) ELIGIBLE COSTS.** A cost-share grant 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 this section 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 STANDARDS.** A cost-share grant 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 all of the following that apply:

1. Technical guide manure transfer standard 634.
2. Technical guide underground outlet standard 620.

(b) The grant recipient agrees to maintain the waste transfer system for 10 years unless farming operations on the affected land are discontinued.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96; am. (4) (a) 1., Register, June, 1999, No. 522, eff. 7-1-99.

**ATCP 50.91 Water and sediment control basins.**

**(1) DEFINITION.** In this section, “water and sediment control basin” means an earthen embankment or a ridge and channel combination which is constructed 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.

**Note:** “Manure storage facility” is defined in s. ATCP 50.62 (1) (c).

**(2) ELIGIBLE COSTS.** A cost-share grant 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 STANDARDS.** 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. Technical guide critical area planting standard 342.
2. Technical guide fencing standard 382.
3. Technical guide water and sediment control basin standard 638.

(b) The grant recipient agrees to maintain the water and sediment control basin for 10 years unless farming operations on the affected land are discontinued.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.92 Waterway systems. (1) DEFINITION.**

In this section, “waterway” means a natural or constructed watercourse 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 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 the necessary installation of machinery crossings.

**(3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant 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. Technical guide critical area planting standard 342.
2. Technical guide fencing standard 382.
3. Technical guide grassed waterway standard 412.
4. Technical guide mulching standard 484.
5. Technical guide subsurface drain standard 606.

(c) The grant recipient agrees to maintain the waterway system for 10 years unless farming operations on the affected land are discontinued.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.93 Well abandonment. (1) DEFINITION.**

In this section, “well abandonment” means permanently disabling and sealing a well to prevent contaminants from reaching groundwater.

**(2) ELIGIBLE COSTS.** A cost-share grant may reimburse costs to design and implement a well abandonment, 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 STANDARDS.** A cost-share grant may not reimburse the cost of well abandonment unless the well abandonment complies with all of the following that apply:

(a) Technical guide well standard 642.

(b) Section NR 812.26, related to well and drillhole abandonment.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.94 Wetland development or restoration.**

**(1) DEFINITION.** In this section, “wetland development or restoration” means the construction of berms, or the destruction of tile line or drainage ditch functions, to create conditions suitable for wetland vegetation.

**(2) ELIGIBLE COSTS.** A cost-share grant 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.

**(3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS.** A cost-share grant may not reimburse wetland development or restoration costs unless all of the following conditions are met:

(a) The wetland development or restoration complies with technical guide wetland restoration standard 657.

(b) The grant recipient agrees to maintain the wetland restoration practice for at least 10 years.

**History:** History: Cr. Register, November, 1996, No. 491, eff. 12-1-96; **am. (3) (a), Register, June, 1999, No. 522, eff. 7-1-99.**

## Subchapter VII — Personnel Certification and Qualifications

**Note:** Among other things, this subchapter creates a certification program for county land conservation committee staff and others who review or engage in agricultural engineering practices under this chapter or s. 281.65, Stats.

Previously, individuals were authorized to review or perform agricultural engineering practices if they were registered as professional engineers under ch. 443, Stats., or were certified by the United States department of agriculture natural resources conservation service (formerly soil conservation service).

The certification program under this subchapter is similar to the federal program. The department’s field engineers certify applicants at specified levels based on their knowledge, training and experience. An applicant may appeal a certification decision through an informal hearing or a formal contested case before the department. State and county employees certified under this program are exempt from the professional engineering registration requirements of ch. 443, Stats., when engaged in soil and water conservation activities under ch. 92 and s. 281.65, Stats., whether or not those activities are funded under this chapter.

**ATCP 50.95 Agricultural engineering practitioner; certification. (1) CERTIFICATION REQUIRED.**

No person, other than a professional engineer registered under ch. 443, Stats., may certify any of the following for funding purposes under this chapter or s. 281.65, Stats., unless that person is certified as an agricultural engineering practitioner under this section:

(a) That design specifications for an agricultural engineering practice under sub. (2) comply with standards under this chapter or s. 281.65, Stats.

**Note:** A design certification under par. (a) typically involves the preparation or approval of a design document which prescribes the installation of an agricultural engineering practice. The process typically requires the application of engineering principles and methods. It may include various components of the planning and design of the practice, including an inventory of the site to gather data used in the design process, an identification or confirmation of particular water quality problems on the site, and an evaluation of the adequacy of the proposed practices to address those problems.

(b) That an agricultural engineering practice under sub. (2) has been constructed or installed according to an approved design, and according to applicable standards and specifications.

**Note:** See ss. 92.18 and 443.14 (10), Stats. A registered professional engineer and persons working under a registered professional engineer's direct supervision, as well as employees of the NRCS, may also seek certification under this section. Any state or county employee certified under this subchapter is exempt from the professional engineering registration requirements of ch. 443, Stats., when engaged in activities under ch. 92 or s. 281.65, Stats., regardless of whether the activities are funded under this chapter.

**(2) AGRICULTURAL ENGINEERING PRACTICES.** For purposes of this section, an agricultural engineering practice includes any of the following:

- (a) An access road.
- (b) A dam.
- (c) A sediment basin.
- (d) A pond.
- (e) A grade stabilization structure.
- (f) A structure for water control.
- (g) A diversion.
- (h) A filter strip.
- (i) A grassed waterway.
- (j) Heavy use area protection.
- (k) A lined waterway or outlet.
- (l) An open channel.
- (m) A pipeline for livestock water supply.
- (n) Sealing or lining for water ponds.
- (o) Roof runoff management.
- (p) Spring development.
- (q) Streambank and shoreline protection.
- (r) Stream channel stabilization.
- (s) A subsurface drain.
- (t) A surface drainage field ditch.
- (u) A surface drainage main or lateral.
- (v) A terrace.
- (w) A trough or tank.
- (x) An underground outlet.
- (y) A waste or manure management system.
- (z) A waste or manure storage facility.
- (za) A waste or manure transfer system.
- (zb) A water and sediment control basin.
- (zc) Wetland development or restoration.
- (zd) Well abandonment.
- (ze) Animals trails and walkways.
- (zf) Crevice and sinkhole treatment.

**(3) APPLYING FOR CERTIFICATION.** A person who wishes to be certified as an agricultural engineering practitioner shall apply to the department or a county land conservation committee. An applicant may apply orally or in writing. 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.

**Note:** An applicant for certification need not apply to the department's offices in Madison, but may apply directly to one of the department's field engineers. An applicant's supervisor may also forward an application to a field engineer.

**(4) EVALUATING APPLICANTS FOR CERTIFICATION.** (a) To evaluate an applicant under sub. (3), the department's field engineer shall complete the certification form shown in Appendix A. 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 engi-

neer may ask engineering staff from the United States department of agriculture, natural resources conservation service, to assist in evaluating an applicant.

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

1. Certify that design specifications for jobs in that class comply with standards under this chapter or s. 281.65, Stats.
2. Certify that jobs in that class have been constructed according to the approved design, and according to any applicable standards and specifications.

**Note:** The rating system under par. (a) is designed to be reasonably consistent with that used by the United States department of agriculture, natural resources conservation service, under 7 CFR 610.1 to 610.5. Appendix A is similar to the NRCS job approval delegation form, and identifies the controlling factors used to determine the relative difficulty of job classes. A person who is certified at a job level under par. (a) may certify his or her own work at that level for funding purposes under this chapter.

(b) If the United States department of agriculture, natural resources conservation service, has previously rated an applicant under 7 CFR 610.1 to 610.5, the department's field engineer shall give that applicant the same initial rating. Within 18 months after the field engineer makes the initial rating, the field engineer shall review that rating under sub. (7).

(c) No certified agricultural engineering practitioner may, for funding purposes under this chapter or s. 281.65, Stats., certify any matter under par. (a) in a job class more complex than that for which the practitioner is authorized under par. (a).

**(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 the United States department of agriculture, 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 an agricultural engineering practitioner, the field engineer shall issue a written certification in the form shown in Appendix A. The certification becomes effective upon signature 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 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, but may review it at any time. A field engineer shall review a certification rating whenever a certified agricultural 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 may not reduce any rating except for good cause.

(c) A field engineer shall document, in writing, his or her reasons for reducing a certification rating under sub. (5), or for refusing to make a requested change, and shall provide that documentation to the supervisor of the agricultural engineering practitioner, if any. The field engineer shall provide a copy of each new rating,

together with any documentation required under this paragraph, to the person rated.

**(8) APPEALS.** (a) An affected person may appeal a field engineer's action under sub. (5), (6) or (7). The affected person shall file his or her 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 reaffirms, modifies or revises the field engineer's action. The reviewer shall provide a copy of his or her written decision to the applicant. The decision shall include a notice of the applicant's right to request a formal 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 formal 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 of the department, or by 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 the following of any suspension or revocation under this subsection:

1. Any land conservation committee or state agency which employs the person suspended or revoked.
2. All state and federal agencies which provide cost-share funds for agricultural 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 agricultural engineering practitioners under this section. The guidelines may include suggested courses, training activities, and types of knowledge and experience which may help applicants qualify for certification at specified rating levels.

**(11) SIGNATURE AND DATE REQUIRED.** No person certified under this section may approve, or submit for approval, any document related to design or construction of an agricultural engineering practice regulated under this section unless the person signs and dates the document.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96; cr. (2) (ze) and (zf), Register, June, 1999, No. 522, eff. 7-1-99.

**ATCP 50.952 Nutrient management planner; qualifications.** (1) **GENERAL.** No funding may be provided under this

chapter for the development of a nutrient management plan unless the plan is developed by a nutrient management planner who is qualified under sub. (2). No funding may be provided for the implementation of a nutrient management plan unless the plan is approved by a nutrient management planner who is qualified under sub. (2).

**Note:** See also s. NR 120.14 (9) and (10).

**(2) PLANNER QUALIFICATIONS.** A nutrient management planner shall be knowledgeable and competent in all of the following areas:

- (a) Compliance with the technical guide.
- (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) Utilizing conservation plans.
- (f) Relevant federal and state laws related to nutrient management.

**(3) EVIDENCE OF QUALIFICATION.** (a) Except as provided under par. (b), a nutrient management planner is considered qualified under sub. (2) if he or she 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 advisor by the American society of agronomy, Wisconsin certified crop advisors board.
3. Registered as a crop scientist, crop specialist, soil scientist, soil specialist or professional agronomist in the American registry of certified professionals in agronomy, crops and soils.
4. The holder of other credentials which the department deems equivalent to those specified under subs. 1. to 3.

(b) Notwithstanding par. (a), the department may deny funding under this chapter for the development or implementation of a nutrient management plan if the department finds, based on evidence in the record, that the nutrient management planner who developed or approved that plan is not qualified under sub. (2).

**(4) PERIODIC REVIEWS.** The department may periodically review nutrient management plans to determine whether persons qualified under sub. (2) have developed or approved those plans.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.954 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.

**Note:** The department may exempt county land conservation committee staff from fees which the department charges for training programs which the department provides.

(g) Issue training guidelines for certified agricultural engineering practitioners under s. ATCP 50.95 (10).

**Note:** The department guidelines may include suggested courses, training activities, and types of knowledge and experience which may help applicants qualify for certification at specified rating levels.

- (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) The Wisconsin department of natural resources

(b) The United States department of agriculture, natural resources conservation service.

(c) The university of Wisconsin-extension.

(d) The statewide association of land conservation committees.

(e) The statewide association of land conservation committee staff.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

### Subchapter VIII — Ordinances

**ATCP 50.96 Manure storage ordinances.** A county, town or municipal ordinance adopted under s. 92.16, Stats., shall include all of the following:

(1) The authority of the county, town or municipality to adopt the ordinance.

(2) The findings that prompted the county, town or municipality to adopt the ordinance, and the purpose for the ordinance.

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

(4) The effective date of the ordinance.

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

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

(6) Provisions which prohibit any person from constructing a manure storage system unless that person does all of the following:

(a) Obtains a permit from the county, town or municipality that adopts the ordinance.

(b) Develops a nutrient management plan that complies with technical guide nutrient management standard 590.

**Note:** A nutrient management plan, demonstrating that manure can be properly utilized, should be included with a permit application under par. (a). If the county, town, or municipality wants to monitor compliance with the nutrient management plan, it should include in its ordinance a monitoring provision under sub. (8).

(c) Complies with ordinance standards for the design and construction of manure storage systems, including the following standards which shall be incorporated by reference in the ordinance:

1. Technical guide waste storage facility standard 313, if desired.

2. Technical guide manure transfer standard 634, if desired.

3. Applicable requirements which DNR requires under s. 281.65 (4) (g) 5., Stats.

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

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

**Note:** The monitoring system may be applied to all manure storage systems regardless of the date of construction of the system.

(9) Conditions, if any, under which the county, town or municipality may require the abandonment of a manure storage system.

(10) Provisions, if any, related to the abandonment of a manure storage system. An ordinance may prohibit any person from abandoning a manure storage system unless that person does all of the following:

(a) Submits an abandonment plan for approval by the county, town or municipality.

(b) Obtains a permit for the abandonment.

(c) Does all of the following according to applicable provisions of technical guide nutrient management standard 590, and subject to inspection by the county, town or municipality:

1. Removes and properly disposes of all accumulated wastes in the manure storage pond.

2. Removes any concrete or synthetic liner, or properly uses pieces of the concrete or synthetic liner as clean fill at the site.

3. Removes any soil saturated with waste from the manure storage facility.

4. Removes any soils, to the depth of significant manure saturation or 2 feet, whichever is less, from the bottom and sides of a facility without a constructed liner.

5. Removes or permanently plugs the waste transfer system serving the manure storage facility.

6. Fills the excavated area to a level above grade with clean fill consisting of clean soil, brick, building stone, concrete, reinforced concrete or broken concrete pavement, and grades the former manure storage site to drain water away from the site.

7. Covers all disturbed areas with topsoil, seeds the areas with a grass mixture, and mulches the seeded area. This subdivision does not apply if an alternative use of the site is authorized under an abandonment plan approved by the county, town or municipality as part of the permit obtained under par. (b).

**Note:** Abandonment requirements under sub. (10) may be applied to all manure storage systems regardless of the date of construction of the system.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96; r. (6) (c) 1., renum. (6) (c) 2. to 4. to be (6) (c) 1. to 3. and am. 1. and 2., Register, June, 1999, No. 522, eff. 7-1-99.

### ATCP 50.962 Shoreland management ordinances.

A shoreland management ordinance adopted by a county, town or municipality under s. 92.17, Stats., shall include all of the following provisions:

(1) The authority of the county, town or municipality to adopt the ordinance.

(2) The findings that prompted the county, town or municipality to adopt the ordinance, and the purpose for the ordinance.

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

(4) The effective date of the ordinance.

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

(6) 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.

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

(8) The procedure for developing a conservation plan and the final approving authority on the plan.

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

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

### ATCP 50.964 Ordinance review and approval.

(1) **REVIEW BY COUNTY.** Before a county, town or municipality adopts or amends a manure storage ordinance under s. 92.16, Stats., or a shoreland management ordinance under s. 92.17, Stats., the county, town or municipality shall refer the proposed ordinance or amendment to the county land conservation committee and the county planning and zoning agency for review and comment.

(2) **SHORELAND MANAGEMENT ORDINANCES; DEPARTMENT APPROVAL.** (a) No county, town or municipality may adopt or amend a shoreland management ordinance under s. 92.17, Stats., without the department's approval. Except as provided under par. (b), a request for approval shall include all of the following:

1. A copy of the proposed ordinance or amendment.

2. Copies of all comments received from the county land conservation committee and the county planning and zoning agency under sub. (1), if any.

3. A summary of public hearings and informational meetings, if any, which were held in connection with the proposed amendment.

4. A statement, by an attorney authorized to practice law in this state, that the attorney has reviewed the ordinance or amend-

ment for compliance with applicable law under chs. 59 to 68, Stats.

**Note:** A local jurisdiction may have authority under chs. 59 through 66, Stats., to adopt a shoreland management ordinance which the department has not approved. However, the department may not fund projects required under a shoreland management ordinance unless the ordinance is adopted under s. 92.17, Stats., and approved by the department.

(b) The department, after reviewing a proposed amendment to a shoreland management ordinance, may approve that amendment without having received any of the information under par. (a)2. to 4. if, in the department's judgment, the amendment does not present significant legal or policy issues under this chapter.

(c) Except when the department approves an ordinance amendment under par. (b), the department shall seek the recommendations of DNR and the land and water conservation board before approving a shoreland management ordinance or amendment.

**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.

(d) The department may not approve a shoreland management ordinance or amendment proposed under s. 92.17, Stats., unless the department finds that the ordinance or amendment reasonably conforms to guidelines which the department adopts under s. 92.17, Stats.

(e) The department may approve a proposed shoreland management ordinance or amendment subject to conditions specified by the department.

(f) If the department disapproves any shoreland management ordinance proposed under s. 92.17, Stats., the department shall specify in writing its reasons.

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

**(3) MANURE STORAGE ORDINANCES; DEPARTMENT REVIEW.** Before a county, town or municipality adopts or amends a manure storage ordinance under s. 92.16, Stats., the county, town or municipality may ask the department to review the ordinance or amendment and give its opinion on whether the ordinance or amendment complies with s. ATCP 50.96. The department may ask the county, town or municipality for information which it needs to perform the requested review.

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

### Subchapter IX — Evaluation Systems

#### ATCP 50.97 Accounting and recordkeeping.

**(1) GENERAL.** A county land conservation committee shall establish and maintain an accounting and recordkeeping system that complies with this subchapter. The accounting and recordkeeping system shall fully and clearly account for the receipt, handling and

disposition of all funds which a county land conservation committee receives under this chapter.

**(2) COST-SHARE GRANTS.** A county land conservation committee shall keep a record of every cost-share grant which it awards to a landowner or land user under this chapter. The committee shall keep the record for at least 3 years after the committee makes its last cost-share grant payment, or for the duration of the maintenance period required under s. ATCP 50.50 (2) (i), whichever is longer. The record shall include all of the following:

(a) A copy of the cost-share contract with the grant recipient under s. ATCP 50.50 (2).

(b) Proof of compliance with applicable requirements under s. ATCP 50.50.

(c) A record of all cost-share payments made to the grant recipient, including the date and amount of each payment.

**(3) INCENTIVE PAYMENTS.** A county land conservation committee shall keep a record of every incentive payment which it makes to a landowner or land user under this chapter. The committee shall keep the record for at least 3 years after the committee makes the last incentive payment. The record shall include all of the following:

(a) A copy of the contract required under s. ATCP 50.52 (2).

(b) Proof of compliance with all applicable requirements under s. ATCP 50.52.

(c) A record of all incentive payments made to the landowner or land user, including the date and amount of each payment.

**(4) RECORDKEEPING BY OTHER GRANT RECIPIENTS.** Grant recipients other than county land conservation committees shall establish and maintain an accounting and recordkeeping system as required under the terms of the contract with the department under s. ATCP 50.42 (3).

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**ATCP 50.974 Department review.** The department may conduct a program review of the activities of a county land conservation committee under this chapter, including the committee's funding of activities and practices under this chapter. The department may do any of the following in connection with its review:

**(1)** Require the committee to provide information requested by the department, including information from the annual single purpose audit performed by the county under other provisions of law.

**(2)** Require the committee to meet with the department to discuss specific projects, practice design and installation, staffing, committee files and recordkeeping, and procedures and preparation for fiscal audits.

**(3)** Inspect and copy records.

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

**History:** Cr. Register, November, 1996, No. 491, eff. 12-1-96.