

Clearinghouse Rule 96-002

STATE OF WISCONSIN)
) ss. Clearinghouse Rule
DEPARTMENT OF AGRICULTURE,) No. 96-002
TRADE & CONSUMER PROTECTION)

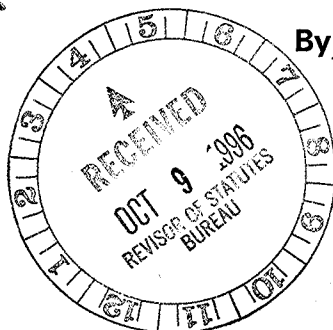
CERTIFICATION:

I, Alan T. Tracy, Secretary of the State of Wisconsin, Department of Agriculture, Trade and Consumer Protection, and custodian of the department's official records, hereby certify that the attached rulemaking order relating to soil and water resource management was signed and adopted by the department on October 4, 1996.

I further certify that I have compared the attached copy to the original on file in the department, and that the attached copy is a complete and accurate copy of the original.

Signed and sealed this 4th day of October, 1996.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

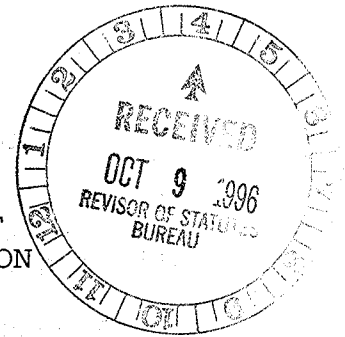


By


Alan T. Tracy, Secretary

12-1-96

ORDER
OF THE STATE OF WISCONSIN DEPARTMENT OF
AGRICULTURE, TRADE AND CONSUMER PROTECTION
REPEALING AND RECREATING RULES



1 The state of Wisconsin department of agriculture, trade and
2 consumer protection repeals ATCP 3.02(1)(f), (k), and (l); amends
3 ATCP 3.02(1)(g), (h), (i), (j) and (m); and repeals and recreates
4 chapter ATCP 50, Wis. Adm. Code, related to soil and water
5 resource management.

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

Statutory authority: ss. 92.05(3)(c) and 93.07(1),
Stats.
Statute interpreted: ch. 92, Stats.

This rule repeals and recreates ch. ATCP 50, Wis. Adm. Code, related to the Wisconsin soil and water resource management program under ch. 92, Stats. This rule incorporates major changes made in the program by 1991 Wis. Act 309. This rule also reorganizes and clarifies current rules.

GENERAL OVERVIEW

The department of agriculture, trade & consumer protection ("department") administers Wisconsin's soil and water resource management program under ch. 92, Stats. The program is designed to conserve the state's soil and water resources, reduce soil erosion and enhance water quality. This rule spells out program standards and procedures.

The department administers the program in cooperation with county land conservation committees, the land and water conservation board ("LWCB"), the department of natural resources ("DNR"), and other state and federal agencies. The department coordinates soil and water management efforts by these agencies. The department also distributes funds to county land conservation committees, landowners, land users and others to support cost-effective soil and water resource management practices.

County Programs

This rule establishes standards for county soil and water resource management programs. County programs must include the following elements:

- A county soil erosion control plan, and a program to implement that plan.
- A program to ensure that recipients of farmland preservation tax credits meet minimum soil and water conservation standards.
- A plan to abate nonpoint source pollution in priority watersheds and priority lake areas, and a program to implement that plan.
- An annual year-end report which includes a summary of county accomplishments, a summary of how staff time was used, a cropland soil erosion status report, and a financial report.
- An annual workplan and grant application which describes the county's proposed activities for the coming year, and requests state funding for those activities. A grant application may request funding for county staff and support costs, as well as for cost-share grants and incentive payments to landowners and land users.
- A program to receive, distribute and account for soil and water resource management grants.
- Procedures to ensure that landowner practices funded by state grant moneys are properly designed, constructed and installed.
- A recordkeeping and recording system.
- A program of information and education for landowners and land users.

Grants to Counties

The department distributes soil and water resource management grants to county land conservation committees. The grants are used to fund county soil and water conservation staff. They are also used to fund county cost-share grants and incentive payments to landowners and land users.

The department distributes these grants according to an annual grant allocation plan. The department prepares the annual plan based on available funding, department funding priorities, and annual workplans and grant applications from the counties. The LWCB reviews the department's annual grant allocation plan.

This rule spells out standards and procedures for distributing grants to county land conservation committees. It includes standards and procedures for all of the following:

- County Workplans and Grant Applications.
- Annual Grant Allocation Plans.

- Grant Contracts with Counties.
- Grant Payments to Counties.

Cost-Share Grants and Incentive Payments to Landowners and Land Users

Under the soil and water resource management program, a county land conservation committee may use state grant funds to make cost-share grants and incentive payments to landowners and land users. The department may also make direct cost-share grants to landowners and land users for some purposes, such as manure management systems needed to comply with a DNR notice of discharge.

A "cost-share grant" reimburses a landowner for part of the cost of installing specific practices identified in the grant. An "incentive payment" means a payment made to a landowner if the landowner complies with specified soil and water resource management standards (the method of compliance is left to the landowner).

This rule spells out standards and procedures related to cost-share grants and incentive payments, including:

- General criteria for awarding cost-share grants and incentive payments.
- Practices eligible for cost-share grants.
- Cost-share rates and maximum payments.
- Design and construction standards.
- Contracts with landowners and land users.
- Verifying compliance by landowners and land users.

Agricultural Engineering Practices and Nutrient Management Planning; Qualified Personnel

Under 1991 Wis. Act 309, the department is required to certify county land conservation committee staff and others who design, review or approve agricultural engineering practices under the soil and water resource management program. This rule spells out certification standards and procedures. The standards and procedures are similar to those used by the United States department of agriculture, natural resource conservation service (USDA-NRCS).

Under this rule, no funds may be provided for the development or implementation of a nutrient management plan unless that plan is developed by a nutrient management planner who meets the minimum qualifications specified under this rule. Nutrient management planners who have professional qualifications or affiliations spelled out under this rule are presumed to be qualified. This rule does not establish a state certification program for nutrient management planners.

County, Town and Municipal Ordinances

Currently, a county, town or municipality may adopt a manure storage ordinance under s. 92.16, Stats., or a shoreland management ordinance under s. 92.17, Stats. No county, town or municipality may adopt a shoreland management ordinance under s. 92.17, Stats., without the department's approval. This rule spells out general standards for local manure storage ordinances and shoreland management ordinances. It also spells out the procedure for obtaining the department's approval of a shoreland management ordinance.

Accounting, Recordkeeping and Program Reviews

This rule requires a county to maintain an accounting and recordkeeping system which accounts for the receipt, handling and disposition of all funds received from the department under ch. 92, Stats. The rule spells out specific recordkeeping requirements for cost-share grants and incentive payments to landowners and land users. The department may review and audit county records as necessary.

COUNTY SOIL EROSION CONTROL PLAN

This rule prohibits the department, after January 1, 1999, from awarding grants to any county land conservation committee that lacks an approved soil erosion control plan. The department must approve or disapprove a plan after the LWCB reviews the plan. Counties that have already filed approved plans (about 55 counties to date) need not file new plans under this rule. The department, in consultation with the land and water conservation board, may waive the requirement of a soil erosion control plan for an individual county if the department finds that cropland soil erosion is not a significant problem in that county.

Plan Components

Under this rule, a county soil erosion control plan must include all of the following:

- A general inventory of land in the county, including soil types, surface topography, watershed areas, and land uses.
- Estimated rates of soil erosion in the county.
- An identification of areas having especially high soil erosion rates.
- Soil erosion control goals, including standards for lands enrolled in the farmland preservation program (see below).
- An identification of practices needed to achieve soil erosion control goals.
- A long-term strategy for implementing needed erosion control practices (see below).

Soil Erosion Control Strategy

Under this rule, a county's long-term soil erosion control strategy may include activities that are contingent on funding. A county strategy may include the following activities, among others:

- Funding cost-effective erosion control practices.
- Providing technical assistance to landowners and land users.
- Developing and administering conservation plans (see below).
- Providing information and education to landowners and land users.
- Developing and implementing soil and water conservation ordinances under s. 92.11, Stats., or shoreland management ordinances under s. 92.17, Stats.
- Coordinating soil and water conservation activities with federal, state and local agencies.

FARMLAND PRESERVATION COMPLIANCE PROGRAM

County Soil and Water Conservation Standards

Under current law, a county land conservation committee must adopt soil and water conservation standards applicable to farmland owners who claim farmland preservation tax credits under subch. IX of ch. 71, Stats. Standards must be approved by the LWCB. Failure to comply with a standard may disqualify a landowner from receiving farmland preservation tax credits. The department must review all county soil and water conservation standards at least once every 5 years.

This rule requires a county land conservation committee to adopt, as a soil and water conservation standard, a requirement that cropland soil erosion not exceed "T-value" (the state soil erosion goal under s. 92.025, Stats.) The committee may adopt other standards which it deems appropriate, subject to LWCB approval. Standards must be incorporated into conservation plans (see below).

Adopting and Approving Standards

Under this rule, a county land conservation committee must hold a public hearing before it adopts or amends a soil and water conservation standard. At least 45 days prior to the public hearing, the committee must submit the proposed standard or amendment to the department for preliminary review and comment. The department must return its comments, if any, within 30 days.

A county land conservation committee, after holding a public hearing, must submit its final draft standard or amendment to the department for approval by the LWCB. The department must give its recommendation to the LWCB within 30 days, and the LWCB must

then approve or disapprove the proposed standard or amendment within 90 days.

If a county land conservation committee fails to adopt the "T-value" standard required under this rule, owners of farmland in that county may not claim farmland preservation tax credits under ch. 71, Stats. If a county land conservation committee adopts, but the LWCB does not approve, additional soil and water conservation standards, a landowner need not comply with those standards in order to obtain farmland preservation tax credits.

Conservation Plans

Under current law, a county land conservation committee must prepare a conservation plan for every farm in the county whose owner claims farmland preservation tax credits. Under this rule, a conservation plan must include all of the following:

- A map delineating each farmland field covered by the plan.
- The current erosion rate for each farmland field covered by the plan.
- Recommended practices to achieve and maintain compliance with county soil and water conservation standards in fields that currently fail to comply.
- A compliance deadline of not more than 5 years, and a requirement that there be sufficient annual progress to meet that compliance deadline.

Under this rule, a county land conservation committee may grant a variance from a compliance schedule. The committee must keep a record of each variance, including the reason for the variance. As part of its annual report to the department, a committee must report any compliance schedule variances granted during the preceding year.

Monitoring Compliance

Under current law, a county land conservation committee must monitor whether landowners claiming farmland preservation tax credits are complying with county soil and water conservation standards. Under this rule, a monitoring system must include both of the following:

- A system by which farm owners certify compliance to the committee, in response to an annual or other periodic request by the committee.
- A system for monitoring compliance by means of field inspections, aerial photographs, remote sensing or other methods which the committee considers reliable. The committee must monitor each landowner's compliance at least once every 6 years, and more frequently if necessary.

Issuing Notices of Noncompliance

Under current law, a county land conservation committee must issue a notice of noncompliance if the committee determines that a landowner is violating a conservation plan or approved soil and water conservation standards. Under this rule, the committee may also issue a notice of noncompliance if a landowner fails to certify compliance as requested, or refuses to permit an inspection to determine compliance. Under current law, a landowner who receives a notice of noncompliance is not eligible for farmland preservation tax credits.

COUNTY REPORTS AND GRANT APPLICATIONS

Annual Report

Under current rules, a county land conservation committee is required to make a number of different year-end reports to the department. This rule combines those year-end reports into a single annual report, simplifies the reporting procedure, and eliminates unnecessary reporting requirements.

This rule requires a county land conservation committee, by April 15 of each year, to file its year-end report for the preceding calendar year. The report must include all of the following:

- An annual summary of program activities and accomplishments.
- A report on cropland soil erosion. The report must include all of the following:
 - A summary of the methods, if any, which the committee is currently using to monitor cropland soil erosion and identify serious soil erosion problems.
 - A description of the systems, if any, which the committee is currently using to collect, analyze, store, update and retrieve soil erosion data.
 - The committee's estimate of the current number of cropland acres in the county, the current number of cropland acres under conservation plans, and the current number of acres enrolled in the farmland preservation program.
 - The approximate number of cropland acres for which the committee has reliable current estimates of soil erosion. The report shall briefly describe the methods used to obtain those estimates.
 - The approximate number of cropland acres for which the committee believes that the current rate of soil erosion is not more than T-value; more than T-value, but not more than twice T-value; more than twice T-value, but not more than 3 times T-value; more than 3 times T-value; or not reasonably determinable based on

- available data.
- An assessment of the county's progress toward achieving compliance with the statewide soil erosion goal under s. 92.025, Stats.
- An identification of key soil erosion problems and data needs.
- A financial report, which must include all of the following:
 - The amount of grant money which the county land conservation committee received from the department during the preceding year, and the purposes for which the committee received that money.
 - The amount of grant money which the county land conservation committee spent during the preceding calendar year, and the purposes for which it spent that money.
 - The amount of grant money remaining in county accounts at calendar year-end.

Annual Grant Application

Under this rule, as under current rules, a county land conservation committee must annually apply to the department for soil and water resource management grants. This rule provides that, by April 15 of each year, a county land conservation committee must file with the department its application for funding for the next calendar year. (The department, in cooperation with DNR, will distribute application forms before January 1 for return by April 15.)

In its annual grant application, a county land conservation committee must identify all of the following:

- The soil and water resource management activities which the county proposes to undertake under this chapter during the next calendar year.
- The total amount of county staff time projected for the county's proposed activities, and the projected allocation of staff time by activity.
- The amount of funding requested for staff salaries, fringe benefits, training and support, in order to carry out the county's proposed activities.
- 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.

- The nature and amount of any other funding requested in connection with the county's proposed activities.
- Any information which the committee wishes to provide in support of its grant application.

GRANTS TO COUNTIES AND OTHERS

Counties Eligible for Grants

To be eligible for a grant from the department under ch. 92, Stats., a county land conservation committee must do all of the following:

- Submit an approved soil erosion control plan (see above).
- Establish soil and water resource management standards for lands enrolled in the farmland preservation program (see above).
- Submit an annual workplan and grant application (see above).

Grant Allocation Criteria

Under this rule, the department must first consider the need for county staff and project continuity when preparing its annual grant allocation plan. The department must also consider all of the following:

- The relative severity and priority of the soil erosion and water quality problems addressed.
- The extent to which the funded activities will address and resolve high priority problems.
- The relative cost-effectiveness of funded activities in addressing and resolving high priority problems.
- The availability of alternative measures to address and resolve high priority problems.
- The extent to which funded activities are part of a systematic and comprehensive approach to soil erosion and water quality problems.
- The completeness of the county grant applications and supporting data.
- The demonstrated cooperation and commitment of the counties, including their commitment of staff and financial resources.
- The demonstrated ability of the counties to manage and implement funded projects.

- The degree to which funded projects contribute to a coordinated soil and water resource management program and avoid duplication of effort.
- The degree to which funded projects meet county soil and water resource management needs and state program requirements.

Annual Grant Allocation Plan

Under current law, the department must allocate grants to county land conservation committees and others according to an annual grant allocation plan that is reviewed by the LWCB. Under this rule, the department must issue a preliminary allocation plan to DNR, the LWCB and every county land conservation committee by September 1 of each year. After obtaining the recommendations of the LWCB, the department must issue its final allocation plan by December 31 of each year.

Under this rule, the department's annual grant allocation plan must specify all of the following:

- The total amount appropriated to the department for possible allocation under the plan, including grant appropriations under ss. 20.115(7)(c), (qd) and (km), Stats.
- The total amount allocated under the plan.
- The total amount allocated for basic annual staffing grants (see below). The plan must also specify the amount allocated to each county, and the reasons for any differences in allocations between counties.
- The total amount allocated for shoreland management grants (see below). The plan must also specify the amount allocated to each county, the amounts allocated directly to farmers, and the reasons for the allocations.
- The total amount allocated for nonpoint pollution abatement grants to landowners and land users to comply with DNR notices of discharge or notices of intent (see below). The plan must also specify:
 - The subtotal amount allocated to comply with DNR notices of discharge or notices of intent outside priority watershed and priority lake areas.
 - The subtotal amount allocated for use in each county, if known.
 - The subtotal amount allocated for use in priority watersheds or priority lake areas, and the subtotal amount allocated for use in each priority watershed or priority lake area.

- The reasons for the allocations.
- The total amount allocated for other grants, including grants related to farmland preservation compliance, animal waste management and erosion control, and other soil and water resource management projects (see below). The plan must also specify:
 - The subtotal amounts allocated for each purpose.
 - The amount allocated to each county and to each grant recipient other than a county.
 - The reasons for the allocations.

Under this rule, if, by December 1 of the year preceding the year of grant distribution, a grant recipient agrees to a reduced grant award, or funds awarded under a prior grant are returned to the department, the department must supplement its annual allocation plan and redistribute funds. This provision applies if the amount to be redistributed is \$50,000 or more.

Basic Annual Staffing Grants to Counties

Under current law and this rule, the department must award grants to county land conservation committees to pay for county personnel needed to operate county soil and water resource management programs. The department awards these grants from the appropriation under s. 20.115(7)(c), Stats. A county must match the department's total grant with an equal commitment of county funds for soil and water resource management administrative and technical operating costs. A county need only match the total amount of the grant, and need not match the grant on an item-by-item basis.

Under this rule, a county may use a basic annual staffing grant for any of the following purposes, subject to the terms of the grant:

- Salaries and fringe benefits for county staff.
- Training for county staff.
- The following staff support costs identified in an approved grant application:
 - Travel expenses, including mileage charges, vehicle leases or purchases, meals, lodging and other necessary costs.
 - Personal computers, software, printers and related devices.
 - Office supplies, including paper, copies, printing and postage.
 - Office equipment and furnishings, including desks,

chairs, calculators, drafting equipment, and file cabinets.

- Field equipment.
- Information and education materials which county staff provide in connection with their soil and resource management activities under this rule.
- Other staff support costs approved by the department.

Under this rule, the department may award different amounts to different counties, based on the department's assessment of funding needs and priorities. A county may use its grant award to fund staff engaged in a variety of soil and water resource management programs, including farmland preservation compliance, erosion control, animal waste management, shoreland management, nonpoint source pollution abatement and others. However, the amount awarded to a county may depend, in part, on the department's concurrence with the county's proposed workplan. The department may also earmark a portion of the grant for a specific purpose, such as staff training.

Subject to the availability of funds, the department must award at least the following amounts to the following counties:

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

In addition to awarding a basic annual staffing grant to each county land conservation committee, the department may earmark portions of other, more specialized, grants to pay for county land conservation committee staff costs which are directly related to those grants (see below).

Shoreland Management Grants

Under current law and this rule, 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 shoreland management ordinance under s. 92.17, Stats. A county land conservation committee may reallocate grant funds to a town or municipality for distribution to farmers covered by a town or municipal ordinance.

The department awards shoreland management grants from the appropriation under s. 20.115(7)(qd), Stats. Under this rule, a county land conservation committee may use a shoreland management grant for any of the following purposes, subject to the terms of

the grant:

- Cost-share grants or incentive payments to farmers.
- Costs to record cost-share agreements with the county register of deeds.
- Reimbursement for county technical assistance provided in connection with a cost-share grant or incentive payment (see below).

Nonpoint Pollution Abatement Grants

Under current law and this rule, the department may award cost-share grants to farmers, or may award grants to counties to finance cost-share grants to farmers, to construct manure management systems needed to comply with a DNR notice of discharge under ch. 147, Stats., or for other management practices needed to comply with a DNR notice of intent under s. 144.025(2), Stats. The department may award grants for projects within or outside a priority watershed or priority lake area.

For projects outside priority watershed or priority lake areas, the department may award these grants from the moneys remaining in the appropriations under ss. 20.115(7)(c) and (qd), Stats., after the department makes basic annual staffing grants and shoreland management grants to counties (see above). For projects within priority watersheds or priority lake areas, the department may award these grants from the appropriation under s. 20.115(7)(km), Stats.

Under this rule, a county land conservation committee may use grant funds for any of the following purposes, subject to the terms of the grant:

- Cost-share grants to farmers.
- Costs to record cost-share agreements with the county register of deeds.
- Reimbursement for county technical assistance provided in connection with a cost-share grant (see below).

Farmland Preservation Compliance Grants

Under current law and this rule, the department may award grants to county land conservation committees to promote compliance with county soil and water conservation standards on lands enrolled in the farmland preservation program. The department may award these grants from the moneys remaining in the appropriations under ss. 20.115(7)(c) and (qd), Stats., after the department makes basic annual staffing grants, shoreland management grants, and nonpoint pollution abatement grants (see above).

Under this rule, a county may use grant funds for any of the following purposes, subject to the terms of the grant:

- Incentive payments to farmland owners who comply with county soil and water conservation standards.
- Cost-share grants to farmland owners for specific practices identified in conservation plans.
- Costs to record cost-share agreements with the county register of deeds.
- Reimbursement for county technical assistance provided in connection with an incentive payment or cost-share grant (see below).
- Other county staffing costs approved by the department.

Grants for Other Soil and Water Resource Management Projects

Under current law and this rule, the department may award grants to county land conservation committees to implement other soil and water resource management projects, including the following:

- Animal waste management activities begun under s. 92.15, 1985 Stats.
- Projects to implement county erosion control plans.
- Other projects designated by the department.

The department may award these grants from the moneys remaining in the appropriations under ss. 20.115(7)(c) and (gd), Stats., after the department makes basic annual staffing grants, shoreland management grants, nonpoint pollution abatement grants, and farmland preservation compliance grants (see above). Under this rule, a county land conservation committee may use grant funds for any of the following purposes, subject to the terms of the grant:

- Cost-share grants or incentive payments to farmers.
- Costs to record cost-share agreements with the county register of deeds.
- Reimbursement for county technical assistance provided in connection with a cost-share grant or incentive payment (see below).

County Technical Assistance; Reimbursement

Under this rule, whenever the department awards a grant to a county land conservation committee to fund cost-share grants or incentive payments to farmers, the department may earmark part of the grant to reimburse the county for technical assistance provided in connection with those cost-share grants or incentive payments. Technical services may include any of the following:

- Technical assistance to farmers receiving cost-share grants, including help in designing cost-shared practices.
- Certification that cost-shared practices are designed, constructed and installed according to this rule.
- Certification that the recipients of incentive payments have

complied with applicable requirements for the receipt of those payments.

- Project administration and supervision.
- Other services approved by the department.

The department may not reimburse a county, for technical assistance related to a cost-share grant or incentive payment, an amount which exceeds 15 percent of the total project cost which is eligible for cost-sharing. Nor may the department reimburse a county for technical services that are reimbursed under the county's basic annual staffing grant.

Grant Contracts and Payments

Under this rule, the department must enter into a grant contract with every county land conservation committee to which it awards a grant. The department must enter into a similar contract with every other person to whom it makes a direct grant.

The department's contract with a county land conservation committee must include all of the following:

- The purpose for which the grant is awarded.
- The total amount of the grant.
- Subtotal amounts designated for specific uses, such as cost-share grants or incentive payments to landowners and land users, county staffing, or reimbursement of specified county services.
- A general description of the types of projects for which cost-share funding is awarded, including aggregate project costs and amounts awarded for each type of project.
- The responsibilities of the department and the land conservation committee under the contract.
- Deadlines for implementing the contract.
- Other terms and conditions specified by the department.

Under this rule, the department must pay the entire grant in a single payment. The department must make the payment to the county land conservation committee by April 15th of the contract year, or within 30 days after the grant contract is signed, whichever is later.

Under this rule, whenever a county land conservation committee may retain grant funds for more than 90 days, the committee must place the funds in an interest-bearing account and use the interest to further the goals of the soil and water resource management program. If a committee fails to spend grant funds in the year scheduled, the department must normally deduct the amount of the unspent funds from the next year's grant allocation check. The amount deducted (and retained by the county) may only be spent according to the provisions of the allocation plan for the next allocation year.

Under current law and this rule, a county receiving grant funds must agree to maintain its support for soil and water resource management programs. The department may withhold grant payments from a county that breaches this or other terms of a grant contract. All contracts are contingent on the availability of legislative appropriations to fund the contracts.

COST-SHARE GRANTS TO LANDOWNERS AND LAND USERS

Eligible Practices and Costs

Under current law and this rule, the department or a county land conservation committee may award a cost-share grant to a landowner or land user for eligible practices which will achieve priority soil or water resource management goals in the most practical and cost-effective way.

Under this rule, the department or a county land conservation committee may award cost-share grants for the following eligible practices, or for other practices which the department specifically approves, if those practices comply with conditions specified in this rule:

- Manure storage systems.
- Manure storage system abandonment.
- Barnyard runoff control systems.
- Access roads and cattle crossings.
- Cattle mounds.
- Conservation tillage.
- Contour farming.
- Critical area stabilization.
- Diversions.
- Field windbreaks.
- Filter strips.
- Grade stabilization structures.
- Heavy use area protection.
- Intensive grazing management.
- Livestock fencing.
- Livestock watering facilities.
- Milking center waste control systems.
- Nutrient and pesticide management.
- Relocating or abandoning an animal feeding operation.
- Roofs.
- Roof runoff systems.
- Sediment basins.
- Streambank and shoreline protection.
- Strip-cropping.
- Subsurface drains.
- Terrace systems.
- Underground outlets.
- Waste transfer systems.
- Water and sediment control basins.

- Waterway systems.
- Well abandonment.
- Wetland development and restoration.

This rule specifies, for each of the eligible practices identified above, the costs that are eligible for reimbursement under a cost-share grant.

Design, Construction and Maintenance Standards

Under this rule, cost-shared practices must comply with specific design, construction and maintenance standards, including applicable standards contained in the "Natural Resources Conservation Service Field Office Technical Guide" published by USDA. Practices must be maintained for a period of time specified in this rule.

Cost-Share Contracts

Under this rule, the department or committee must enter into a written contract with the recipient of a cost-share grant before making any payments to that grant recipient. The cost-share grant contract must include all of the following:

- The name and address of the grant recipient. If the recipient is not the landowner, the contract must also include the name and address of the landowner.
- The purpose for the cost-share grant.
- The total amount of the cost-share grant.
- The location of the land on which the cost-shared practice is to be installed, and a specific legal description of the land if the cost-share grant is for more than \$1,000.
- Design specifications for the cost-shared practice.
- The total cost of the cost-shared practice, and the percentage of that cost that will be funded under the cost-share grant.
- A timetable for constructing and installing the cost-shared practice.
- An agreement that the grant recipient will operate and maintain the cost-shared practice for the period of time required under this rule, and will repay the full amount of the cost-share grant if the cost-shared practice is not maintained.
- 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 term of the maintenance period.

- Other standard terms specified under this rule (see below).

Standard Contract Terms

Under this rule, a cost-share contract must include the following standard terms:

- Before the department or a county land conservation committee makes any cost-share payment to a landowner or land user, it must determine that the cost-shared practice is designed, constructed and installed according to standards specified in this rule and the cost-share contract. Certain cost-shared practices must be reviewed by a professional engineer registered under ch. 443, Stats., an "agricultural engineering practitioner" certified under this rule, or a "nutrient management planner" who is qualified under this rule.
- 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.
- The department or county land conservation committee may make partial payments for properly completed portions of a cost-shared practice, but may not distribute more than 90 percent of the cost-share grant before the cost-shared practice is completed in full.
- Neither the department nor a county land conservation committee may make a cost-share payment for any portion of a cost-shared practice until the cost-share grant recipient does one of the following:
 - Provides proof that the grant recipient has paid in full for the construction and installation of that portion of the cost-shared practice.
 - Authorizes the department or committee to make the cost-share payment by means of a multi-party check that includes the primary contractors as co-payees, and either deposits in an approved escrow account sufficient funds to pay for the remaining costs to construct and install the cost-shared practice, or provides proof of payment in full for the grant recipient's portion of the cost-shared practice.
- The department or county land conservation committee must

record a cost-share contract with the county register of deeds within 30 days after the practice is installed and certified, and before the department or committee makes any cost-share payment under the contract. This recording requirement does not apply to cost-share contracts for less than \$1,000, or for contracts which include only the following practices:

- Contour farming.
- Contour strip-cropping.
- Field strip-cropping.
- Conservation tillage.
- Nutrient management.
- Pesticide management.
- Other practices jointly identified by the department and the LWCB.

Payments Made Only to Grant Recipient

Under this rule, neither the department nor a county land conservation committee may make a cost-share grant payment to anyone other than the grant recipient, except with the recipient's authorization. A grant recipient must authorize the use of multi-party checks (e.g., checks which name contractors or lenders as co-payees).

Paying for Construction Services Provided by Grant Recipient

Under this rule, the department or a county land conservation committee may reimburse a cost-share grant recipient for services which he or she provides in connection with the construction or installation of a cost-shared practice if the department or committee finds both of the following:

- The grant recipient is competent to perform the services.
- The grant recipient will provide the services at an equal or lower cost than other service providers.

Cost Containment Procedures

Under this rule, the department must use at least one of the following procedures to contain the cost of a cost-shared practice:

- Make cost-share payments based on the average cost of a cost-shared practice, regardless of its actual cost.
- Establish an acceptable cost range for a cost-shared practice.
- Require the grant recipient to obtain competitive bids for a cost-shared practice, using bidding procedures specified by

the department. Bidding procedures must comply with this rule. 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.

- Specify a maximum amount which the department will pay for a cost-shared practice, regardless of the cost of that practice.
- Use an employe or agent of the department to design, construct or install a cost-shared practice if, by doing so, the department can minimize public costs related to the practice.
- Use other cost containment procedures which the department approves.

Under this rule, a land conservation committee must develop cost containment procedures for its cost-shared practices under this rule. The county's procedures must be reasonably consistent with the cost-containment procedures used by the department under this rule.

COST-SHARE RATES AND MAXIMUM PAYMENTS

Cost-Share Rates; General

This rule specifies the maximum percentage rate (cost-share rate) at which the department or a county land conservation committee may reimburse a landowner or land user for eligible practices identified in this rule. For most eligible practices, the maximum cost-share rate is 70 percent, or 80 percent if the practice is required to comply with a shoreland management ordinance. For certain practices and situations, this rule specifies different maximum cost-share rates (see below).

Nutrient and Pesticide Management Practices; Cost-Share Rates

Under this rule, the maximum cost-share rate for nutrient and pesticide management practices is 50 percent, or 80 percent if the practice is required in order to comply with a shoreland management ordinance.

Intensive Grazing Practices; Cost-Share Rates

Under this rule, the maximum cost-share rate for intensive grazing practices is 50 percent, or 80 percent if intensive grazing practices are required in order to comply with a shoreland management ordinance.

Manure Storage Systems; Cost-Share Rates

For manure storage systems, this rule specifies maximum cost-share rates as follows:

- 70 percent for the first \$20,000 of eligible manure storage system costs. If there is "economic hardship," the maximum rate is 85 percent (90 percent if the system is required in order to achieve compliance with a shoreland management ordinance).
- 50 percent for eligible costs over \$20,000. If there is "economic hardship," the maximum rate is 75 percent (90 percent if the system is required in order to achieve compliance with a shoreland management ordinance).

Manure storage systems are also subject to a maximum payment cap (see below).

Barnyard Runoff Control Systems; Cost-Share Rates

A "barnyard runoff control system" may include any of several eligible practices used to control barnyard runoff. The maximum cost-share rate for most of those practices is 70 percent. But if there is "economic hardship," the maximum cost-share rate is as follows:

- 85 percent of the first \$20,000 of eligible practices (90 percent if the system is required in order to achieve compliance with a shoreland management ordinance).
- 75 percent for eligible costs over \$20,000 (90 percent if the system is required in order to achieve compliance with a shoreland management ordinance).

Cropping Practices; Cost-Share Rates

For certain cropping practices, this rule specifies cost-share limits in terms of maximum payments per acre. These maximum payments range from one annual payment of \$7.50 per acre for field strip-cropping to 3 annual payments of \$18.50 per acre for high residue management systems. In addition, the department or county land conservation committee may pay up to 50 percent of necessary costs to remove obstructions or install subsurface drains.

Economic Hardship

Under this rule, the department or a county land conservation committee may pay a higher cost-share rate for a manure storage system or barnyard runoff control system (see above) if the department or committee makes a finding of "economic hardship." To make a finding of "economic hardship," the department or committee must find all of the following:

- That the practice is required in order to comply with a notice of discharge issued under ch. 147, Stats., or with a shoreland management zoning ordinance enacted under s. 92.17, Stats.
- That the grant recipient has a debt-to-asset ratio of more than 60 percent as verified by a signed statement from a certified public accountant.
- That the grant recipient will be able to pay the balance of the proposed costs of the practice, as verified by a signed statement from an accredited financial institution or a certified public accountant.
- That the practice is the least expensive way to attain compliance with the notice of discharge or the shoreland management zoning ordinance.

Maximum Payments

Under this rule:

- No cost-share grant may exceed \$25,000 without the department's approval.
- The total of all government payments for a manure storage system may not exceed \$35,000, or \$45,000 if there is "economic hardship."
- No cost-share grant to relocate an animal feeding operation may exceed 70 percent 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 percent of the eligible relocation costs at the new site, whichever site cost is less. No more than \$5,000 of the cost-share grant may be used to transport livestock from the abandoned facility to the new facility.
- A cost-share grant for intensive grazing management may not include more than \$2,000 for a watering system.

Engineering Design Services; Additional Payment

The department or a county land conservation committee, in addition to paying the cost-share percentage allowed under this rule, may reimburse a cost-share grant recipient for engineering services needed to design the cost-shared practice. The amount paid as reimbursement for engineering services may not exceed 15% of the total project cost eligible for cost-sharing.

INCENTIVE PAYMENTS TO LANDOWNERS AND LAND USERS

Incentive Payment Contracts

Under current law and this rule, the department or a county land conservation committee may award an incentive payment to a landowner or land user who achieves compliance with specified soil and water resource management standards. Under this rule, the department or committee must enter into a written contract with each person to whom the department or committee offers incentive payments. The contract must include all of the following:

- 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.
- The purpose for the incentive payment.
- The amount of the incentive payment. No annual incentive payment may exceed \$1,000 except with the department's specific authorization.
- The location of the land to which the incentive payment applies.
- 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.
- Other conditions specified by the department or the county land conservation committee.

Payments Made Only to Contracting Landowner or Land User

Under this rule, no incentive payment be made to any person other than the contracting landowner or land user except with specific written authorization of that landowner or land user.

Verifying Compliance

Under this rule, the department or a county land conservation committee must verify by inspection or other reliable methods that the person receiving an incentive payment has met all of the conditions required under the contract for the receipt of that incentive payment.

AGRICULTURAL ENGINEERING PRACTITIONER; CERTIFICATION

Certification Program

Pursuant to s. 92.18, Stats., this rule establishes a program to

certify county land conservation committee staff and other persons who review and approve agricultural engineering practices for funding purposes under this rule or s. 144.25, Stats. The certification program is similar to a certification program administered by USDA, Natural Resources Conservation Service.

The certification program applies to persons who review and approve agricultural engineering practices listed in this rule. Certified persons may also design and oversee construction of agricultural engineering practices for which they are certified. Certified state and county employees need not be registered as professional engineers when engaged in the activities for which they are certified.

Who Must be Certified

This rule prohibits any person, other than a professional engineer registered under ch. 443, Stats., from certifying any of the following for funding purposes under this rule or s. 144.25, Stats., unless the department certifies that person as an agricultural engineering practitioner:

- That an agricultural engineering practice is designed in compliance with this chapter or s. 144.25, Stats.
- That an agricultural engineering practice is constructed or installed according to approved design specifications.

Applying for Certification

Under this rule, a person who wishes to be certified as an agricultural engineering practitioner must apply to the department or a county land conservation committee. A person may apply orally or in writing. The department or committee must promptly refer the application to a department field engineer. Within 30 days, the department field engineer must rate the applicant and issue a decision granting or denying the application.

Certification Rating

The department field engineer must rate an applicant using the rating form shown in Appendix A to this rule. The field engineer must rate the applicant based on the applicant's demonstrated knowledge, training, experience, and record of appropriately seeking assistance. For the purpose of rating an applicant, a field engineer may conduct interviews, perform inspections, and require answers and documentation from the applicant.

For each type of agricultural engineering practice, the rating form identifies 5 job classes requiring progressively more complex planning, design and construction. Under this rule, the

field engineer must identify the most complex of the 5 job classes for which the applicant is authorized to certify each of the following:

- That the practice is properly designed.
- That the practice is properly constructed according to design specifications.

Under this rule, a successful applicant may not certify any agricultural engineering practice in a job class more complex than that for which he or she is certified.

Appealing a Certification Decision

A field engineer must issue a certification decision in writing, and must include a complete rating form (see above). An applicant may appeal a certification decision or rating by filing a written appeal with the field engineer. The field engineer must meet with the appellant in person or by telephone to discuss the matters at issue.

If the appeal is not resolved, the department must schedule an informal hearing before a qualified department employe other than the field engineer. After the informal hearing, the presiding officer must issue a written decision which affirms, modifies or reverses the field engineer's action. If the applicant disputes the presiding officer's decision, the applicant may request a formal contested case hearing under ch. ATCP 1 and ch. 227, Stats.

Reviewing Certification Ratings

Under this rule, a department field engineer must review the certification rating of every agricultural engineering practitioner at least once every 3 years. A field engineer must also review a certification rating at the request of the person certified. A field engineer may not reduce a rating without good cause, and all reductions must be in writing.

Suspending or Revoking Certification

Under this rule, the department may suspend or revoke a certification for cause. 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. An order of suspension or revocation must be signed by the secretary or the secretary's designee.

NUTRIENT MANAGEMENT PLANNER; QUALIFICATIONS

Under this rule:

- No funding may be provided for the development of a nutrient management plan unless the plan is developed by a nutrient management planner who meets qualifications specified under this rule.
- No funding may be provided for the implementation of a nutrient management plan unless the plan is approved by a nutrient management planner who meets qualifications specified under this rule.

A nutrient management planner is qualified under this rule if he or she is knowledgeable and competent in all of the following areas:

- Compliance with applicable technical standards published by USDA.
- Soil testing.
- Calculating nutrient needs on a field-by-field basis.
- Crediting manure, residual legume nitrogen and other nutrient sources on a field-by-field basis.
- Using conservation plans.
- Compliance with federal and state laws related to nutrient management.

Under this rule, a nutrient management planner is presumed to be qualified if he or she is at least one of the following:

- Recognized as a certified professional crop consultant by the national alliance of independent crop consultants.
- Recognized as a certified crop advisor by the American society of agronomy, Wisconsin certified crop advisors board.
- 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.
- The holder of other credentials which the department deems equivalent to those specified above.

TRAINING FOR COUNTY STAFF

Under this rule, the department must appoint a training advisory

committee to advise the department on training activities. The committee must include representatives of all of the following:

- The Wisconsin department of natural resources
- The United States department of agriculture, natural resources conservation service.
- The university of Wisconsin-extension.
- The statewide association of land conservation committees.
- The statewide association of land conservation committee staff.

The department, in consultation with the training advisory committee and county land conservation committees, may do any of the following to ensure adequate training of county staff:

- Determine training needs and priorities.
- Identify training opportunities and resources.
- Make training recommendations.
- Approve training programs funded under this chapter.
- Coordinate the delivery of training.
- Provide training and assess fees to cover training costs.
- Issue training guidelines for certified agricultural engineering practitioners.
- Distribute training funds to counties.

ORDINANCES

Manure Storage Ordinances

A county, town or municipality may currently enact a manure storage ordinance under s. 92.16, Stats. The department may adopt rules for manure storage ordinances. Under this rule, a manure storage ordinance must include all of the following provisions:

- The authority of the county, town or municipality to adopt the ordinance.
- The findings that prompted the county, town or municipality to adopt the ordinance, and the purpose for the ordinance.
- Provisions, if any, related to the initial applicability and severability of the ordinance.
- The effective date of the ordinance.
- Definitions of significant terms used in the ordinance.
- Provisions which prohibit any person from constructing a manure storage system unless that person does all of the following:

- Obtains a permit from the county, town or municipality that adopts the ordinance.
- Develops a nutrient management plan that complies with standards specified under this rule.
- Complies with specified standards for the design and construction of manure storage systems.
- Provisions related to ordinance administration, including inspection and enforcement authority, appeal procedures, and penalties for violating the ordinance.
- Provisions, if any, for monitoring the adequacy of manure storage systems.
- Conditions, if any, under which the county, town or municipality may require the abandonment of a manure storage system.
- Provisions, if any, related to the abandonment of a manure storage system.

Under this rule, a manure storage ordinance may prohibit any person from abandoning a manure storage system unless that person does all of the following:

- Submits an abandonment plan for approval by the county, town or municipality.
- Obtains a permit for the abandonment.
- Does all of the following according to standards specified in this rule:
 - Removes and properly disposes of all accumulated wastes in the manure storage pond.
 - Removes any concrete or synthetic liner, or properly uses pieces of the concrete or synthetic liner as clean fill at the site.
 - Removes any soil saturated with waste from the manure storage facility.
 - Removes 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.
 - Removes or permanently plugs the waste transfer system serving the manure storage facility.
 - 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.
- 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 approved under an abandonment plan by the county, town or municipality.

This rule does not require a county, town or municipality to obtain department approval of a proposed manure storage ordinance. However, a county, town or municipality may ask the department to review a proposed ordinance for compliance with this rule.

Shoreland Management Ordinances

A county, town or municipality may currently enact a shoreland management ordinance under s. 92.17, Stats. The department must approve shoreland management ordinances, and may adopt guidelines for shoreland management ordinances. Under this rule, the department may approve a shoreland management ordinance that includes all of the following:

- The authority of the county, town or municipality to adopt the ordinance.
- The findings that prompted the county, town or municipality to adopt the ordinance, and the purpose for the ordinance.
- Provisions, if any, related to the initial applicability and severability of the ordinance.
- The effective date of the ordinance.
- Definitions of significant terms used in the ordinance.
- 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.
- Required soil and water resource management standards or practices. This rule does not mandate specific standards or practices, but ordinance requirements should be reasonably consistent with department guidelines.
- The procedure for developing a conservation plan, and the local authority authorized to approve the plan.
- Provisions related to ordinance administration, including inspection and enforcement authority, appeal procedures, and penalties for violating the ordinance.

This rule spells out the procedure for obtaining the department's

approval of a shoreland management ordinance or amendment. The department must seek the recommendations of the DNR and the LWCB before it approves an ordinance or amendment, except that the department may summarily approve an ordinance amendment which presents no significant legal or policy issues under this rule.

ACCOUNTING, RECORDKEEPING AND PROGRAM REVIEWS

Accounting and Recordkeeping; General

Under this rule, a county land conservation committee must establish and maintain an accounting and recordkeeping system to account for the receipt, handling and disposition of all funds the county receives under the program.

Cost-Share Grants; Records

Under this rule, a land conservation committee must keep a record of every cost-share grant which it awards to a landowner or land user. The committee must keep the record for at least 3 years after it makes the last cost-share payment, or for the required life of the cost-shared practice, whichever is longer. The record must include all of the following:

- A copy of the cost-share contract.
- Proof that the grant recipient has met the terms of the contract.
- A record of all cost-share payments made to the grant recipient, including the date and amount of each payment.

Incentive Payments; Records

Under this rule, a county land conservation committee must keep a record of every incentive payment which it awards to a landowner or land user. The committee must keep the record for at least 3 years after it makes the last incentive payment. The record must include all of the following:

- A copy of the required contract.
- Proof that the landowner or land user has met the terms of the contract.
- A record of all incentive payments made to the recipient, including the date and amount of each payment.

Department Review

Under this rule, the department may review the activities of a county land conservation committee under the soil and water

resource management program. The department may do any of the following in connection with its review:

- Require the committee to provide information requested by the department, including information from the single organization-wide financial and compliance audit.
- Inspect and copy records.
- Inspect activities and practices funded under this rule.

WAIVERS

The department may grant a waiver from any standard or requirement under this rule if the department finds that the waiver is necessary to achieve the objectives of this rule. A waiver must be in writing, signed by the department secretary.

STANDARDS INCORPORATED BY REFERENCE

Pursuant to s. 227.21, Stats., the department has received permission from the attorney general and the revisor of statutes to incorporate by reference, in this rule, USDA technical guide standards, ASAE engineering practice standards, DNR construction site erosion control standards, the UW-Extension pollution control guide for milking center waste water management, and the UW-Extension guide on rotational grazing.

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2

SECTION 1. ATCP 3.02(1)(g), (h), (i), (j) and (m) are

3

amended to read:

4

(g) (title) County soil and water resource management

5

standards; rules. The adoption, amendment or repeal of rules

6

establishing substantive criteria for the ~~allocation of soil~~

7

~~erosion control funds to counties under s. 92.10 (3) (d)~~ approval

8

of county soil and water resource management standards under ss.

9

92.105(1) and 92.106, Stats., if the adoption, amendment or

10

repeal of ~~the rule~~ those rules may significantly affect the

11

quality of the human environment.

12

(h) (title) Soil and water resource management; grant

1 allocation plan. Approval of an annual soil and water resource
2 management grant allocation plan ~~for funding for county land~~
3 ~~conservation projects~~ under s. 92.14, Stats., and s. ATCP 50.30.

4 (i) (title) Soil and water resource management grants;
5 rules. The adoption, amendment or repeal of rules establishing
6 substantive funding criteria for the allocation of ~~funds for~~
7 ~~county land conservation projects~~ soil and water resource
8 management grants under s. 92.14, Stats., if the adoption,
9 amendment or repeal of ~~the rule~~ those rules may significantly
10 affect the quality of the human environment.

11 (j) (title) Ordinances; rules. The adoption, amendment or
12 repeal of rules establishing substantive criteria for the
13 approval of ~~county animal waste plans under s. 92.15 (2) (a)~~
14 manure storage ordinances under s. 92.16, Stats., or shoreland
15 management ordinances under s. 92.17, Stats., if the adoption,
16 amendment or repeal of ~~the rule~~ those rules may significantly
17 affect the quality of the human environment.

18 (m) (title) Manure storage facilities; standards. ~~Adoption~~
19 The adoption, amendment or repeal of rules establishing standards
20 for the construction of ~~earthen~~ manure storage facilities under
21 s. 92.16, Stats., if the adoption, amendment or repeal of those
22 rules may significantly affect the quality of the human
23 environment.

24 **SECTION 2.** ATCP 3.02(1)(f), (k) and (l) are repealed.

25 **SECTION 3.** Chapter ATCP 50 is repealed and recreated to
26 read:

1 CHAPTER ATCP 50

2 SOIL AND WATER RESOURCE MANAGEMENT PROGRAM

3 NOTE: This chapter implements Wisconsin's soil and water
4 resource management program under ch. 92, Stats. The
5 department of agriculture, trade and consumer
6 protection administers the program in cooperation with
7 county land conservation committees, the land and water
8 conservation board, the department of natural resources
9 and other state and federal agencies. The program has
10 the purposes specified under s. 92.14(2), Stats.
11
12

13 Subchapter I

14 Definitions and General Provisions

- 15
16 ATCP 50.01 Definitions
17 ATCP 50.02 Soil and Water Resource Management; Program
18 Coordination
19 ATCP 50.04 Waivers
20

21 Subchapter II

22 County Soil and Water Resource Management Program

- 23
24 ATCP 50.10 County Program; General
25 ATCP 50.12 County Soil Erosion Control Plan
26 ATCP 50.16 Farmland Preservation; Soil and Water Resource
27 Management Standards
28 ATCP 50.18 Farmland Preservation; Conservation Plans
29 ATCP 50.20 Farmland Preservation; Compliance
30

31 Subchapter III

32 County Reports and Grant Applications

- 33
34 ATCP 50.22 Annual Report
35 ATCP 50.24 Annual Grant Application
36

37 Subchapter IV

38 Grants to Counties and Others

- 39
40 ATCP 50.30 Annual Grant Allocation Plan
41 ATCP 50.32 Basic Annual Staffing Grants to Counties
42 ATCP 50.34 Shoreland Management Grants
43 ATCP 50.36 Nonpoint Pollution Abatement Grants
44 ATCP 50.38 Other Soil and Water Resource Management Grants
45 ATCP 50.40 County Services Related to Cost-Share Grants and
46 Incentive Payments
47 ATCP 50.42 Grant Contracts With Counties and Others
48 ATCP 50.44 Grant Payments to Counties; Contract Terms
49

50 Subchapter V

1 Cost-Share Grants and Incentive Payments
2 to Landowners and Land Users

- 3
4 ATCP 50.50 Cost-Share Grants to Landowners and Land Users
5 ATCP 50.52 Incentive Payments to Landowners and Land Users
6 ATCP 50.54 Cost-Share Rates and Maximum Payments; General
7 ATCP 50.56 Economic Hardship; Cost-Share Rates and Maximum
8 Payments
9

10 Subchapter VI
11 Practices Eligible for Cost-Share Grants

- 12
13 ATCP 50.60 General
14 ATCP 50.62 Manure Storage Systems
15 ATCP 50.63 Manure Storage System Abandonment
16 ATCP 50.64 Barnyard Runoff Control Systems
17 ATCP 50.66 Access Roads and Cattle Crossings
18 ATCP 50.67 Cattle Mounds
19 ATCP 50.68 Conservation Tillage
20 ATCP 50.69 Contour Farming
21 ATCP 50.70 Critical Area Stabilization
22 ATCP 50.71 Diversions
23 ATCP 50.72 Field Windbreaks
24 ATCP 50.73 Filter Strips
25 ATCP 50.74 Grade Stabilization Structures
26 ATCP 50.75 Heavy Use Area Protection
27 ATCP 50.76 Intensive Grazing Management
28 ATCP 50.77 Livestock Fencing
29 ATCP 50.78 Livestock Watering Facilities
30 ATCP 50.79 Milking Center Waste Control Systems
31 ATCP 50.80 Nutrient and Pesticide Management
32 ATCP 50.81 Relocating or Abandoning Animal Feeding Operations
33 ATCP 50.82 Roofs
34 ATCP 50.83 Roof Runoff Systems
35 ATCP 50.84 Sediment Basins
36 ATCP 50.85 Streambank and Shoreline Protection
37 ATCP 50.86 Strip-Cropping
38 ATCP 50.87 Subsurface Drains
39 ATCP 50.88 Terrace Systems
40 ATCP 50.89 Underground Outlets
41 ATCP 50.90 Waste Transfer Systems
42 ATCP 50.91 Water and Sediment Control Basins
43 ATCP 50.92 Waterway Systems
44 ATCP 50.93 Well Abandonment
45 ATCP 50.94 Wetland Development or Restoration
46

47 Subchapter VII
48 Personnel Certification and Qualifications

- 49
50 ATCP 50.95 Agricultural Engineering Practitioner;
51 Certification
52 ATCP 50.952 Nutrient Management Planner; Qualifications

1 ATCP 50.954 Training for County Staff

2
3 Subchapter VIII
4 Ordinances

5
6 ATCP 50.96 Manure Storage Ordinances
7 ATCP 50.962 Shoreland Management Ordinances
8 ATCP 50.964 Ordinance Review and Approval

9
10 Subchapter IX
11 Accounting, Recordkeeping and Program Reviews

12
13 ATCP 50.97 Accounting and Recordkeeping
14 ATCP 50.974 Department Review

15
16
17 SUBCHAPTER I

18
19 DEFINITIONS AND GENERAL PROVISIONS

20
21 ATCP 50.01 Definitions
22 ATCP 50.02 Soil and Water Resource Management; Program
23 Coordination
24 ATCP 50.04 Waivers

25
26 **ATCP 50.01 DEFINITIONS.** In this chapter: (1) "Cost-
27 share grant" means a grant that reimburses a landowner or land
28 user for all or part of an eligible soil or water resource
29 management practice under subch. VI that is identified in the
30 grant.

31 (2) "County land conservation committee" means the
32 committee created by a county board under s. 92.06, Stats.
33 "County land conservation committee" includes employes or agents
34 of a county land conservation committee who, with committee
35 authorization, act on behalf of the committee.

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

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

1 (5) "Incentive payment" means a payment made to a landowner
2 or land user who complies with specified soil or water resource
3 management standards using practices chosen by the landowner or
4 land user. An "incentive payment" does not include a cost-share
5 grant.

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

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

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

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

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

18 NOTE: The natural resources conservation service is the new
19 name for the soil conservation service.

20 (11) "Priority lake" has the meaning given in s.
21 144.25(2)(be), Stats.

22 (12) "Priority watershed" has the meaning given in
23 s. 144.25(2)(c), Stats.

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

25 (14) "Structural height" means the difference in elevation
26 in feet between the point of lowest elevation of the structure or
27 embankment before overtopping and the lowest elevation of the

1 natural stream or lake bed at the downstream toe of the structure
2 or embankment.

3 (15) "Technical guide" means the natural resources
4 conservation service field office technical guide, published by
5 the natural resources conservation service of the United States
6 department of agriculture, that is in effect on [...revisor
7 inserts effective date of this rule...].

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

15 (16) "T-value" means the maximum average annual rate of
16 soil erosion for each soil type that will permit a high level of
17 crop productivity to be sustained economically and indefinitely.

18 **ATCP 50.02 SOIL AND WATER RESOURCE MANAGEMENT; PROGRAM**

19 **COORDINATION.** (1) COORDINATED PROGRAM. The department shall
20 administer a coordinated soil and water resource management
21 program to achieve the purposes specified under s. 92.14(2),
22 Stats. To the maximum extent feasible, the department shall
23 integrate the following programs related to soil and water
24 resource management:

25 (a) The erosion control planning program under s. 92.10,
26 Stats.

27 (b) Farmland preservation compliance requirements under ss.
28 92.104 and 92.105, Stats.

29 (c) DNR programs related to protection and rehabilitation

1 of inland lakes under ch. 33, Stats., nonpoint source pollution
2 abatement under ss. 144.025 and 144.25, Stats., and pollution
3 discharge elimination under ch. 147, Stats.

4 (d) The adoption of local ordinances related to soil and
5 water resource management practices under s. 92.11, Stats.,
6 manure storage facilities under s. 92.16, Stats., and shoreland
7 management under s. 92.17, Stats.

8 (e) The department's award of soil and water resource
9 management grants under s. 92.14, Stats.

10 (f) The training and certification program under s. 92.18,
11 Stats.

12 (g) Other federal, state and local programs related to land
13 and water resource management.

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

18 (a) Recommend soil and water resource management practices
19 to achieve common program goals.

20 (b) Promote integrated data collection and management
21 related to soil and water resource management.

22 (c) Enter into memoranda of understanding, and coordinate
23 policies, procedures and priorities with federal, state and local
24 agencies.

25 (d) Prepare and comment on proposals related to soil and
26 water resource management and nonpoint source pollution.

1 abatement.

2 (e) Conduct project and program reviews.

3 (f) Provide information, education, training and technical
4 assistance.

5 (g) Make recommendations and provide staff support to the
6 land and water conservation board.

7 (h) Perform other functions within its authority.

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

11 (a) DNR.

12 (b) County land conservation committees.

13 (c) The United States department of agriculture, natural
14 resources conservation service.

15 (d) Others as the department deems necessary.

16 NOTE: Pursuant to ss. 92.14(12) and 144.25(4)(o), Stats.,
17 the department and the DNR jointly submit an annual
18 program evaluation and summary of program
19 accomplishments to the land and water conservation
20 board. Biennially, the department prepares a state
21 soil and water conservation report under s.
22 92.05(2)(e), Stats., which DNR includes in its biennial
23 report to the LWCB under s. 144.25(3)(b), Stats.

24 **ATCP 50.04 WAIVERS.** The department may grant a written
25 waiver from any provision of this chapter if the department finds
26 that the waiver is necessary to achieve the objectives of this
27 chapter. A waiver under this section shall be signed by the
28 secretary. The department may not grant a waiver from statutory
29 requirements.

30 NOTE: Under s. ATCP 50.18(4), the county land conservation

1 committee is authorized to grant variances from the
2 schedule of compliance in an individual landowner or
3 land user's conservation plan. Those variances are not
4 considered variances or waivers from the requirements
5 of this chapter, and they are not covered by this
6 section. As explained in a note under s. ATCP
7 50.18(4), the land and water conservation board may
8 also grant variances from individual conservation plan
9 schedules and may grant variances from the schedules
10 for all individuals in a particular region or area of
11 the state. Those variances are not considered
12 variances or waivers from specific requirements of this
13 chapter and are not covered by this section.
14

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

21 22 SUBCHAPTER II

23 COUNTY SOIL AND WATER RESOURCE MANAGEMENT PROGRAM

24	ATCP 50.10	County Program; General
25	ATCP 50.12	County Soil Erosion Control Plan
26	ATCP 50.16	Farmland Preservation; Soil and Water Resource
27		Management Standards
28	ATCP 50.18	Farmland Preservation; Conservation Plans
29	ATCP 50.20	Farmland Preservation; Compliance
30		

31 ATCP 50.10 COUNTY PROGRAM; GENERAL. (1) PROGRAM ELEMENTS.

32 Every county land conservation committee shall establish and
33 maintain a county soil and water resource management program.

34 The program shall include the following components, except as
35 otherwise provided under this chapter:

36 (a) A soil erosion control plan under s. ATCP 50.12, and a
37 program to implement that plan.

38 (b) A farmland preservation compliance program under ss.
39 ATCP 50.16, 50.18 and 50.20.

1 (c) A plan to abate both of the following, and a program to
2 implement that plan:

3 1. Nonpoint source pollution identified in DNR notices
4 under s. 144.025 and ch. 147, Stats.

5 2. Nonpoint source pollution in priority watersheds and
6 priority lake areas under s. 144.25, Stats., if any.

7 NOTE: This subsection does not require a county to
8 participate in the DNR priority watershed program.
9 However, if the county is a participant, this
10 subsection requires that the priority watershed program
11 be a component of the county's overall soil and water
12 resource management program, and that the components of
13 the county program be coordinated.

14 (d) A program to prepare and submit annual reports under
15 s. ATCP 50.22 and annual grant applications under s. ATCP 50.24.

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

18 (f) A procedure to ensure that practices funded under this
19 chapter are designed, constructed and installed according to this
20 chapter.

21 (g) An accounting and recordkeeping system under s. ATCP
22 50.97.

23 (h) An information and education program to promote
24 effective soil and water resource management.

25 (i) Other program elements required under this chapter.

26 (2) COORDINATION. A county land conservation committee
27 shall, to the extent practicable, coordinate the program elements
28 under sub. (1) with each other and with all of the following:

29 (a) The county's land information and modernization program

1 under ss. 16.967 and 59.88(3), Stats.

2 (b) The related activities of the United States department
3 of agriculture, natural resources conservation service, in that
4 county.

5 (c) The related activities of state agencies and local
6 governments in that county.

7 **ATCP 50.12 COUNTY SOIL EROSION CONTROL PLAN.** (1)

8 REQUIREMENT. By January 1, 1999, every county land conservation
9 committee shall prepare and submit, for department approval, a
10 county soil erosion control plan unless one of the following
11 applies:

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

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

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

29
30 The soil erosion control plan may be prepared using
31 data and information previously collected by the county
32 or other entities, including information such as

1 natural resource inventory data from the NRCS. The
2 data and soil survey information used in the plan may
3 have been obtained through earlier funding by the
4 department under the soil and water resource management
5 program.

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

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

10 1. Major soil types and their distribution.

11 2. Surface topography and the distribution of major
12 topographical features.

13 3. Watershed areas and their boundaries.

14 4. Land use categories and their distribution.

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

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

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

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

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

28 NOTE: In order to estimate the rate of soil erosion for
29 each cropland field, a county land conservation
30 committee need not individually analyze each field.
31 The committee may estimate the soil erosion rates on
32 individual fields based on representative sampling of

1 fields in an area or region.
2

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

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

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

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

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

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

33 (3) SOIL EROSION CONTROL; LONG-TERM STRATEGY. A county's
34 long-term soil erosion control strategy under sub. (2)(j) may

1 include any of the following activities:

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

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

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

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

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

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

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

20 1. The total amount of erosion occurring in each area.

21 2. The extent to which the current estimated rate of
22 erosion under sub. (2)(e) exceeds the acceptable rate under sub.
23 (2)(f).

24 3. The off-site damages, including water degradation,
25 caused by the erosion.

26 4. The extent to which the erosion is preventable.

1 5. The cost of preventing the erosion.

2 6. The feasibility of land use changes, management
3 practices, and soil and water resource management projects to
4 control the erosion.

5 7. Other identified factors which the county land
6 conservation committee considers relevant.

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

9 (4) PLAN DEVELOPMENT. A county land conservation
10 committee, when preparing a county soil erosion control plan
11 under sub. (1), shall solicit comments from the department; DNR;
12 the United States department of agriculture, natural resource
13 conservation service; and the county land information office
14 created under s. 59.88(3), Stats.

15 (5) NOTICE OF PRIORITY AREAS. A county land conservation
16 committee shall notify landowners and land users in each priority
17 erosion control area identified by the committee under sub.

18 (3)(g). Notice shall include all of the following:

19 (a) The estimated erosion rate for the priority area.

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

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

24 (d) Other information which the land conservation committee
25 considers appropriate.

26 NOTE: Notices to landowners under sub. (5) may be included
27 in conservation plans for those landowners under s.

1 ATCP 50.18.

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

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

16 **ATCP 50.16 FARMLAND PRESERVATION; SOIL AND WATER RESOURCE**

17 **MANAGEMENT STANDARDS.** (1) STANDARDS REQUIRED. (a) Every
18 county land conservation committee shall adopt a standard which
19 provides that the rate of soil erosion on individual cropland
20 fields enrolled in the farmland preservation program under subch.
21 IX of ch. 71, Stats., may not exceed a rate specified by the
22 committee. The rate specified by the committee may not exceed T-
23 value. The standard which the committee adopts under this
24 paragraph shall apply as provided under s. 92.105(7), Stats.

25 (b) A county land conservation committee may adopt, in
26 addition to the standard under par. (a), other soil and water

1 resource management standards that apply to persons claiming
2 farmland preservation tax credits under subch. IX of ch. 71,
3 Stats.

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

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

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

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

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

1 management division, or by the administrator's designee.

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

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

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

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

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

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

25 (d) The county land conservation committee has failed to
26 provide necessary information which the department or the land

1 and water conservation board has requested in connection with its
2 review of the standard or amendment.

3 (7) FORM OF DECISION; NOTICE TO COUNTY. (a) In its
4 decision under sub. (5), the land and water conservation board
5 may adopt the department's proposed decision under sub. (4) (c),
6 or it may modify the department's decision as it deems
7 appropriate. If the board modifies the department's decision,
8 the board shall explain the basis for the modification.

9 (b) The chair of the land and water conservation board, or
10 the chair's designee, shall sign the board's decision under sub.
11 (5).

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

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

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

1 zoning authority in the county.

2 (8) STANDARD INCORPORATED INTO CONSERVATION PLANS.

3 Whenever the land and water conservation board approves a county
4 standard or amendment under this section, the county land
5 conservation committee shall incorporate that standard or
6 amendment into every conservation plan under s. ATCP 50.18 that
7 is prepared or amended after the approval.

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

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

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

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

26 2. The standard included in their farmland preservation

1 agreements under ch. 91, Stats.

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

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

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

17 **ATCP 50.18 FARMLAND PRESERVATION; CONSERVATION PLANS.** (1)
18 REQUIREMENT. A county land conservation committee shall prepare
19 a conservation plan for every farm in that county for which the
20 owner claims farmland preservation tax credits under subch. IX of
21 ch. 71, Stats. The committee shall prepare the plan in
22 consultation with the owner and shall provide a copy of the plan
23 to the owner.

24 NOTE: Conservation plans may be prepared in response to
25 participation in one of a number of different
26 conservation programs, including the Wisconsin farmland
27 preservation program under ch. 91, Stats., the federal
28 conservation reserve program and others. This chapter
29 and ch. 92, Stats., encourage the coordination of these
30 conservation efforts and the sharing of data and plans.

1 Acreage under any conservation plan should be reported
2 in the annual report required under s. ATCP 50.22.

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

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

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

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

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

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

17 (a) Comply with each approved standard under s. ATCP
18 50.16(1) by a specified date which is not more than 5 years after
19 the effective date of the plan or the standard, whichever is
20 later.

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

23 (4) SCHEDULE VARIANCE. A county land conservation
24 committee may, for good cause shown, grant a variance from a
25 compliance schedule under sub. (3). The committee shall keep a
26 record of all variances granted under this subsection, including
27 the reason for each variance. The committee shall, in each of

1 its annual reports under s. ATCP 50.22, report any variances
2 which it has granted under this subsection during the preceding
3 calendar year. If the department finds that a county land
4 conservation committee has granted improper variances, the
5 department may require the committee to submit proposed variances
6 for department approval.

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

13 ATCP 50.20 FARMLAND PRESERVATION; COMPLIANCE. (1)

14 MONITORING COMPLIANCE. A county land conservation committee
15 shall monitor compliance with conservation plans and applicable
16 standards under s. ATCP 50.18. Monitoring shall include all of
17 the following:

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

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

28 (2) NOTICE OF NONCOMPLIANCE. (a) A county land
29 conservation committee shall issue a notice of noncompliance to

1 each farmland owner who does any of the following:

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

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

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

10 (b) A farmland owner who receives a notice of noncompliance
11 under par. (a) is not eligible for farmland preservation tax
12 credits under subch. IX of ch. 71, Stats., as provided under ss.
13 92.104 and 92.105, Stats.

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

20 (d) Before it issues a notice of noncompliance under par.

21 (a), a county land conservation committee shall notify the
22 farmland owner of its intent to issue the notice, and shall
23 inform the owner that he or she may appear at a scheduled meeting
24 to contest or discuss the proposed notice. The committee shall
25 issue its notice of intent to the farmland owner by certified
26 mail at least 10 days before the scheduled meeting.

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

12 SUBCHAPTER III

13 COUNTY REPORTS AND GRANT APPLICATIONS

14 ATCP 50.22 Annual Report

15 ATCP 50.24 Annual Grant Application

16
17
18 **ATCP 50.22 ANNUAL REPORT.** (1) REQUIREMENT. By April 15
19 of each year, a county land conservation committee receiving
20 funding under this chapter shall file with the department a year-
21 end report for the preceding calendar year. The committee shall
22 file the report on a form provided by the department. The report
23 shall include all of the following:

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

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

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

28 (d) A listing of each variance which the county land

1 conservation committee granted during the preceding calendar year
2 pursuant to s. ATCP 50.18(4), including the reason for each
3 variance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 on reliable current data.

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

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

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

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

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

16 **ATCP 50.24 ANNUAL GRANT APPLICATION.** (1) REQUIREMENT. By
17 April 15 of each year, a county land conservation committee shall
18 file with the department its application for funding under this
19 chapter for the next calendar year. The committee shall file its
20 grant application on a form provided by the department.

21 NOTE: The department and DNR will jointly solicit grant
22 applications from county land conservation committees
23 under this chapter and s. 144.25, Stats. The
24 department and DNR will distribute grant application
25 forms as soon as possible prior to January 1 of each
26 year, for return by April 15 of that year. Before it
27 distributes grant application forms to the counties,
28 the department will consult with county representatives
29 regarding the department's tentative funding
30 priorities. The department will give notice of its
31 tentative priorities when it distributes grant
32 applications to the counties. The department may

1 modify its tentative priorities based on the actual
2 grant applications which the counties submit.

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

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

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

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

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

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

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

24 NOTE: The department awards grants according to subch. IV.

25 (3) GRANT APPLICATIONS FROM OTHERS. (a) The department
26 may accept grant applications from persons other than county land
27 conservation committees, as provided under s. 92.14, Stats. The

1 department may require a grant applicant to use a form provided
2 by the department and to submit the application by a deadline
3 date which the department specifies. No town or municipality may
4 apply directly to the department for funds to implement practices
5 required by a shoreland management ordinance under s. 92.17,
6 Stats.

7 NOTE: A town or municipality seeking funds to implement
8 practices required under a shoreland management
9 ordinance must submit a request to the county for
10 possible inclusion in the county's annual grant
11 application.

12 (b) Whenever the department receives a grant request from a
13 farmer under s. 92.14(3m) or (4)(c), Stats., the department shall
14 provide a copy of that grant request to the county land
15 conservation committee in each county in which the affected land
16 is located.

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

22
23 **SUBCHAPTER IV**

24 **GRANTS TO COUNTIES AND OTHERS**

25 ATCP 50.30 Annual Grant Allocation Plan
26 ATCP 50.32 Basic Annual Staffing Grants to Counties
27 ATCP 50.34 Shoreland Management Grants
28 ATCP 50.36 Nonpoint Pollution Abatement Grants
29 ATCP 50.38 Other Soil and Water Resource Management Grants
30 ATCP 50.40 County Services Related to Cost-Share Grants and
31 Incentive Payments
32 ATCP 50.42 Grant Contracts With Counties and Others

3 ATCP 50.30 ANNUAL GRANT ALLOCATION PLAN. (1) PLAN

4 REQUIRED. Except as authorized under sub. (6), the department
5 shall allocate grants under this chapter according to an annual
6 grant allocation plan that is reviewed by the land and water
7 conservation board.

8 (2) PREPARING THE PLAN. (a) The department shall prepare
9 an annual grant allocation plan under sub. (1) for each calendar
10 year. The department shall prepare the plan in consultation with
11 DNR after reviewing county grant applications under s. ATCP
12 50.24.

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

17 (c) The department, after obtaining the recommendations of
18 the land and water conservation board, shall issue its final
19 allocation plan by December 31 of the year preceding the calendar
20 year to which the plan applies. The final plan may include
21 changes recommended by the land and water conservation board, as
22 well as updated estimates of project costs. The department shall
23 provide copies of the final allocation plan to DNR, the land and
24 water conservation board and every county land conservation
25 committee.

26 (3) PLAN CONTENTS. The department's annual grant
27 allocation plan under sub. (1) shall specify, for the next

1 calendar year, all of the following:

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

5 (b) The total amount allocated under the plan.

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

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

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

16 1. The total amount allocated under s. ATCP 50.36.

17 2. The subtotal amounts allocated under ss. ATCP 50.36(1)
18 and (2).

19 3. The amount allocated for use in each county, if known.

20 4. The total amount allocated for use in priority
21 watersheds or priority lake areas, and the amount allocated for
22 use in each priority watershed or priority lake area.

23 5. The reasons for the allocations.

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

26 1. The total amount allocated under s. ATCP 50.38.

1 2. The subtotal amounts allocated under ss. ATCP 50.38(1),
2 (2) and (3).

3 3. The amount allocated for use in each county.

4 4. The amount allocated for use by each grant recipient
5 other than a county land conservation committee.

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

10 (4) COUNTIES ELIGIBLE FOR GRANTS. (a) After January 1,
11 1999, the department may not award or distribute a grant under
12 this chapter to a county land conservation committee that has
13 failed to comply with s. ATCP 50.12.

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

17 1. Establish a soil and water resource management standard
18 under s. ATCP 50.16(1)(a) for lands enrolled in the farmland
19 preservation program.

20 2. Submit an annual report under s. ATCP 50.22 for the
21 preceding calendar year.

22 3. Submit an annual grant application under s. ATCP 50.24.

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

1 following:

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

4 (b) The extent to which the funded activities will address
5 and resolve high priority problems.

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

8 (d) The availability of alternative measures to address and
9 resolve high priority problems.

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

13 (f) The completeness of the grant applications and
14 supporting data.

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

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

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

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

26 (6) SUPPLEMENTARY ALLOCATION PLAN. (a) By April 30 of the

1 year in which grant monies are distributed, the department shall
2 prepare a supplementary allocation plan if, by December 1 of the
3 preceding year, grant monies totalling \$50,000 or more became
4 available for redistribution for either of the following reasons:

5 1. A grant recipient designated under the annual allocation
6 plan agrees to a reduced grant award because the grant recipient
7 determined that the full grant award is no longer needed.

8 2. A grant recipient designated under the annual allocation
9 plan returns some or all of the funds distributed to that
10 recipient under a prior grant.

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

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

24 (d) A supplementary allocation plan under par. (a) shall
25 comply with subs. (2) through (5). Before it issues the
26 supplementary allocation plan, the department shall submit the

1 draft plan to DNR and the land and water conservation board for
2 review and comment.

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

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

15 **ATCP 50.32 BASIC ANNUAL STAFFING GRANTS TO COUNTIES.** (1)
16 ELIGIBLE COUNTIES. From the appropriation under s. 20.115(7)(c),
17 Stats., the department shall award a basic annual staffing grant
18 to each eligible county land conservation committee, provided
19 that the county board has resolved to match the grant with an
20 equal commitment of county funds. A county board may not
21 reallocate grant funds to other county agencies to implement the
22 county's soil and water resource management program without the
23 department's written approval.

24 (2) USE OF STAFFING GRANTS; GENERAL. A basic annual
25 staffing grant under sub. (1) may pay for salaries, fringe
26 benefits, training, and staff support costs under sub. (3) for

1 county employes and agents engaged in soil and water resource
2 management activities under this chapter, subject to the terms of
3 the grant.

4 NOTE: The department may reimburse a county under this
5 subsection for costs for training of land conservation
6 committee members. The department may also reimburse a
7 county under s. ATCP 50.40 for technical assistance and
8 other services performed by county personnel in
9 connection with specific cost-share grants or incentive
10 payments. Payments under s. ATCP 50.40 are limited to
11 15% of the total eligible project cost.

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

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

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

20 (c) Office supplies, including paper, copies, printing and
21 postage.

22 (d) Office equipment and furnishings, including desks,
23 chairs, calculators, drafting equipment, and file cabinets.

24 (e) Field equipment.

25 (f) A proportionate share of the costs of required
26 financial and compliance audits.

27 (g) Costs for information and education supplies and
28 services which county employes or agents use or distribute in
29 connection with their activities under this chapter.

30 (h) Other staff support costs approved by the department.

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

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

9 NOTE: When a county employs a new county conservationist,
10 the department enters into an agreement with the county
11 land conservation committee regarding the training,
12 responsibilities, professional qualifications and
13 professional development of that county
14 conservationist. The agreement continues until
15 canceled or modified, or until the county
16 conservationist leaves the employ of that county. The
17 county conservationist's actual employment contract is
18 normally with the county executive or the county board.

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

22 **ATCP 50.34 SHORELAND MANAGEMENT GRANTS.** (1) GENERAL.

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

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

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

12 ATCP 50.36 NONPOINT POLLUTION ABATEMENT GRANTS. (1)

13 GENERAL. From the moneys remaining in the appropriations under
14 ss. 20.115(7)(c) and (qd), Stats., after the department has made
15 annual grant awards under ss. ATCP 50.32 and 50.34, the
16 department may make cost-share grants to landowners or land
17 users, or may award grants to county land conservation committees
18 to finance cost-share grants to landowners or land users, to
19 construct best management practices needed to comply with a DNR
20 notice of intent or notice of discharge under s. 144.025(2) or
21 ch. 147, Stats.

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

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

1 (b) The systems are needed to comply with a DNR notice of
2 discharge under ch. 147, Stats.

3 NOTE: The department may award grants under this subsection
4 only for manure management systems required, in a
5 priority watershed or priority lake area, by a DNR
6 notice of discharge under ch. 147, Stats. The
7 department may not award grants under this subsection
8 for practices required by a DNR notice of intent under
9 s. 144.025(2)(v), Stats., but may award grants under
10 sub. (1) for those practices.

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

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

18 **ATCP 50.38 OTHER SOIL AND WATER RESOURCE MANAGEMENT GRANTS.**

19 (1) FARMLAND PRESERVATION COMPLIANCE. From the moneys remaining
20 in the appropriations under ss. 20.115(7)(c) and (qd), Stats.,
21 after the department has made annual grant awards under s. ATCP
22 50.36(1), the department may award grants to county land
23 conservation committees to finance either of the following:

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

26 (b) Cost-share grants to farmland owners for specific
27 practices identified in conservation plans under s. ATCP
28 50.18(2)(c).

29 (2) ANIMAL WASTE MANAGEMENT AND EROSION CONTROL. From the
30 moneys remaining in the appropriations under ss. 20.115(7)(c) and
31 (qd), Stats., after the department has made annual grant awards
32 under sub. (1), the department may award grants to county land

1 conservation committees to continue animal waste management
2 projects begun pursuant to s. 92.15, 1985 Stats., or to implement
3 erosion control plans under s. ATCP 50.12. Grants under this
4 subsection may include funding for cost-share grants and
5 incentive payments to landowners or land users.

6 (3) OTHER SOIL AND WATER RESOURCE MANAGEMENT PROJECTS.

7 From the moneys remaining in the appropriations under ss.
8 20.115(7)(c) and (qd), Stats., after the department has made
9 annual grant awards under sub. (2), the department may award
10 grants to county land conservation committees or other grant
11 applicants to undertake other soil and water resource management
12 activities under ch. 92 or s. 144.25(4)(g)5., Stats. Grants
13 under this subsection may include funding for cost-share grants
14 and incentive payments to landowners or land users.

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

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

22 ATCP 50.40 COUNTY SERVICES RELATED TO COST-SHARE GRANTS AND

23 INCENTIVE PAYMENTS. (1) REIMBURSEMENT AUTHORIZED. The
24 department may, as part of any grant under s. ATCP 50.34, 50.36
25 or 50.38 which is used to finance cost-share grants or incentive
26 payments to landowners or land users, reimburse a county land
27 conservation committee for specified services under sub. (2)
28 which the committee provides in connection with those cost-share

1 grants or incentive payments.

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

4 (a) Technical assistance to the recipients of cost-share
5 grants.

6 (b) Certification that cost-shared projects are designed,
7 constructed and installed according to this chapter.

8 (c) Certification that the recipients of incentive payments
9 have complied with applicable requirements for the receipt of
10 those payments.

11 (d) Project administration and supervision.

12 (e) Technical assistance provided in connection with a
13 notice of discharge under ch. 147, Stats., when there is no cost-
14 share contract between the department and the landowner or land
15 user under this chapter. Reimbursement under this paragraph is
16 limited to actual salary and fringe benefit costs, and may not
17 exceed \$3,000 per notice of discharge.

18 (f) Other services approved by the department.

19 (3) REIMBURSEMENT LIMIT. The department shall determine
20 the amount of any reimbursement under sub. (1). Except as may be
21 authorized under sub. (2)(e), the department may not pay, as
22 reimbursement to a county land conservation committee under sub.
23 (1), an amount which exceeds 15 percent of that portion of the
24 total project cost which is eligible for cost-sharing. The
25 department may not reimburse a county land conservation committee
26 under sub. (1) for services that are reimbursed under s. ATCP

1 50.32 or ch. NR 120.

2 ATCP 50.42 GRANT CONTRACTS WITH COUNTIES AND OTHERS. (1)

3 ANNUAL WRITTEN CONTRACT REQUIRED. The department may not make
4 any grant to a county land conservation committee under this
5 chapter except under an annual written contract between the
6 department and the committee.

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

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

10 (b) The total amount of the grant.

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

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

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

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

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

25 (g) Deadlines for implementing the contract.

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

27 (3) CONTRACTS WITH OTHERS. The department may not make any

1 grant under this chapter to an applicant other than a land
2 conservation committee, except under a written contract between
3 the department and the grant recipient. The contract shall
4 comply with this section and applicable provisions of s. ATCP
5 50.44.

6 **ATCP 50.44 GRANT PAYMENTS TO COUNTIES; CONTRACT TERMS.** (1)

7 GENERAL. A county land conservation committee receiving a grant
8 under this chapter shall comply with this chapter and the terms
9 of the grant contract.

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

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

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

28 (4) UNSPENT OR REPAID FUNDS. (a) Except as provided under

1 par. (b), if a county land conservation committee does not spend
2 all of the grant funds which it receives under this chapter in
3 the year that those funds are scheduled to be spent, or if spent
4 funds are repaid to the committee, the department shall deduct
5 the amount of the unspent or repaid funds from the next year's
6 grant allocation to the committee. The amount deducted is
7 retained by the committee and shall only be spent according to
8 the provisions and restrictions of the allocation plan for the
9 next allocation year.

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

16 (5) AGREEMENT TO MAINTAIN EFFORT. As a condition to the
17 receipt of a grant under this chapter, a county board agrees to
18 maintain or increase its expenditures for soil and water resource
19 management activities under this chapter, as provided under s.
20 92.14(7), Stats. County funds for capital expenditures and
21 revenues from sources other than the county may not be used to
22 reduce the county's base level of expenditures.

23 (6) BREACH OF CONTRACT. The department may withhold grant
24 payments to a county land conservation committee, or may require
25 the committee to return grant payments, if the department finds
26 that the committee has violated ch. 92, Stats., or this chapter,

1 or breached its contract with the department under s. ATCP 50.42.

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

7 (7) CONTRACT CONTINGENT ON LEGISLATIVE APPROPRIATIONS.

8 Grant payments to a county land conservation committee or other
9 grant recipient under this chapter are contingent on the
10 continued availability of legislative appropriations to fund
11 those payments.

12
13 **SUBCHAPTER V**

14 **COST-SHARE GRANTS AND INCENTIVE PAYMENTS**
15 **TO LANDOWNERS AND LAND USERS**

16
17 ATCP 50.50 Cost-Share Grants to Landowners and Land Users
18 ATCP 50.52 Incentive Payments to Landowners and Land Users
19 ATCP 50.54 Cost-Share Rates and Maximum Payments; General
20 ATCP 50.56 Economic Hardship; Cost-Share Rates and Maximum
21 Payments

22 **ATCP 50.50 COST-SHARE GRANTS TO LANDOWNERS AND LAND USERS.**

23 (1) GENERAL. The department or a county land conservation
24 committee may award a cost-share grant to a landowner or land
25 user for eligible practices under subch. VI if the department or
26 the committee finds that those practices are the most practical
27 and cost-effective way to achieve a priority soil or water
28 resource management goal under this chapter. A cost-share grant
29 shall comply with applicable requirements under this subchapter.

30 NOTE: See also s. ATCP 50.60.

31 (2) CONTRACT REQUIRED. Whenever the department or a county
32 land conservation committee awards a cost-share grant under this

1 chapter to a landowner or land user, the department or committee
2 shall enter into a written contract with that landowner or land
3 user. The contract shall include all of the following:

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

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

8 (c) The total amount of the cost-share grant. The total
9 amount may not exceed the maximum amount allowed under s. ATCP
10 50.54 or 50.56.

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

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

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

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

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

25 (i) An agreement that the grant recipient will operate and
26 maintain the cost-shared practice for the period of time required

1 under subch. VI or replace it with an equally effective practice.

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

6 (k) If the contract provides for a cost-share grant of more
7 than \$1,000, an agreement that the contract runs with the land
8 and is binding on subsequent owners or users of the land for the
9 period of time required under subch. VI.

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

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

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

21 (3) DESIGN AND CONSTRUCTION STANDARDS; GENERAL. (a)

22 Before the department or a county land conservation committee
23 makes any cost-share payment to a landowner or land user under
24 this chapter, it shall determine that the cost-shared practice is
25 all of the following:

26 1. Designed, constructed and installed according to

1 applicable standards under subch. VI.

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

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

13 (4) AGRICULTURAL ENGINEERING PRACTICES. In the case of an
14 agricultural engineering practice identified under s. ATCP
15 50.95(2), the department or county land conservation committee
16 shall make its findings under sub. (3) based on a written
17 certification by one of the following:

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

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

22 (5) NUTRIENT MANAGEMENT PRACTICES. Neither the department
23 nor a county land conservation committee may make any cost-share
24 payment under this chapter for nutrient management practices
25 unless the practices are implemented pursuant to a nutrient
26 management plan that is developed or approved by a nutrient

1 management planner qualified under s. ATCP 50.952.

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

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

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

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

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

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

26 (b) Paragraph (a) does not apply to cost-share contracts of

1 less than \$1,000, or to cost-share contracts which include only
2 one or more of the following practices and no others:

- 3 1. Contour farming.
- 4 2. Contour strip-cropping.
- 5 3. Field strip-cropping.
- 6 4. Conservation tillage.
- 7 5. Nutrient management.
- 8 6. Pesticide management.
- 9 7. Other practices jointly identified by the department and
10 the land and water conservation board under this paragraph.

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

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

- 21 (a) The grant recipient is competent to perform the
22 services.
- 23 (b) The grant recipient will provide the services at an
24 equal or lower cost than other service providers.

25 (10) COUNTY COST CONTAINMENT PROCEDURES. The county land
26 conservation committee shall use the most cost-effective method

1 to achieve program objectives. The committee may develop its own
2 cost containment procedures for grants provided under this
3 chapter. The procedures shall be reasonably consistent with the
4 procedures used by the department under sub. (11).

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

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

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

18 (c) The department may obtain, or may require a grant
19 recipient to obtain, competitive bids for a cost-shared practice,
20 using bidding procedures specified by the department. The
21 department may make cost-share payments based on the low bid cost
22 of the practice, whether or not the grant recipient selects the
23 low bidder. If the landowner or land user is required to obtain
24 bids, the bidding procedure shall meet at least the following
25 minimum standards:

26 1. There shall be at least 3 qualified bids.

1 2. All bids shall be sealed and delivered by the bid
2 deadline to a location specified by the department.

3 3. A bid opening shall be conducted within 2 weeks after
4 the bid deadline.

5 4. The amount of the cost-share grant to install the cost-
6 shared practice shall be based on the lowest qualified bid.

7 5. The landowner or land user may select a contractor that
8 submitted a higher bid only if the landowner or land user pays
9 the difference. The landowner or land user may not select a
10 contractor that did not bid on the project.

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

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

23 (e) The department may use its own employees or agents to
24 design, construct or install a cost-shared practice if, by doing
25 so, it can minimize public costs related to the practice. The
26 department may, for this purpose, retain the Wisconsin
27 conservation corps or other contractors as agents of the
28 department.

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

1 subsection.

2 ATCP 50.52 INCENTIVE PAYMENTS TO LANDOWNERS AND LAND USERS.

3 (1) GENERAL. A county land conservation committee may make
4 incentive payments to landowners or land users for purposes
5 approved by the department.

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

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

19 (a) The name and address of the person receiving the
20 incentive payment. If the recipient is not the landowner, the
21 contract shall also include the name and address of the
22 landowner.

23 (b) The purpose for the incentive payment.

24 (c) The amount of the incentive payment.

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

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

29 (e) The specific conditions which the landowner or land
30 user must meet in order to qualify for the incentive payment,

1 including any soil or water resource management standards which
2 the recipient must meet.

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

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

10 NOTE: The department or the county land conservation
11 committee may, for example, require specific procedures
12 for verifying compliance with the contract, or may
13 require inspections or monitoring at specific
14 intervals.

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

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

25 **ATCP 50.54 COST-SHARE RATES AND MAXIMUM PAYMENTS; GENERAL.**

26 (1) MAXIMUM COST-SHARE RATES FOR SPECIFIED PRACTICES. Except as
27 provided under sub. (4) or (5), or under s. ATCP 50.56, cost-
28 share rates for the following practices may not exceed the
29 following rates:

30

PRACTICE	COST-SHARE RATE (%)
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1	(a) Manure storage system:	
2	1. First \$20,000 of eligible costs	70
3	2. Eligible costs over \$20,000	50
4	(b) Manure storage abandonment	70
5	(c) Access road or cattle crossing	70
6	(d) Cattle mound	70
7	(e) Critical area stabilization	70
8	(f) Diversion	70
9	(g) Field windbreak	70
10	(h) Filter strip	70
11	(i) Grade stabilization structure	70
12	(j) Heavy use area protection	70
13	(k) Intensive grazing management	50
14	(L) Livestock fencing	70
15	(m) Livestock watering facility	70
16	(n) Milking center waste control system	70
17	(o) Nutrient management for up to 3 years	50
18	(p) Pesticide management for up to 3 years	50
19	(q) Relocating or abandoning animal	
20	feeding operations	70
21	(r) Roof	70
22	(s) Roof runoff system	70
23	(t) Sediment basin	70
24	(u) Streambank and shoreline protection	70
25	(v) Subsurface drain	70
26	(w) Terrace	70
27	(x) Underground outlet	70

- 1 (y) Waste transfer system 70
- 2 (z) Water and sediment control basin 70
- 3 (aa) Waterway system 70
- 4 (bb) Well abandonment 70
- 5 (cc) Wetland development or restoration 70

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

- 8 (a) One payment of up to \$ 9 per acre for contour cropping.
- 9 (b) One payment of up to \$ 13.50 per acre for strip-cropping.
- 10 (c) One payment of up to \$ 7.50 per acre for field
 11 strip-cropping.
- 12 (d) Payments of up to \$ 18.50 per acre per year, for up to 3
 13 years, for high residue management systems. The department or a
 14 county land conservation committee may combine, in a single
 15 payment, payments for 2 or more years.

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

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

22 (4) PRACTICES NEEDED TO COMPLY WITH SHORELAND MANAGEMENT
 23 ORDINANCE; HIGHER COST-SHARE RATE ALLOWED. Except as provided
 24 under s. ATCP 50.56, the maximum cost-share rate for a practice
 25 under sub. (1) that is needed to comply with a shoreland
 26 management ordinance adopted under s. 92.17, Stats., is 80

1 percent. This subsection does not apply to a manure storage
2 system or milking center waste control system under sub. (1)(a)
3 or (n).

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

9 (a) The practice is needed to comply with a notice of
10 discharge issued under ch. 147, Stats.

11 (b) The notice of discharge under par. (a) is issued for a
12 critical site designated under s. 144.25, Stats.

13 (c) The cost-share agreement is executed after the cost-share
14 grant eligibility period under s. 144.25(8)(jm), Stats., has
15 expired.

16 (6) ENGINEERING DESIGN SERVICES; ADDITIONAL PAYMENT. The
17 department or a county land conservation committee may, in
18 addition to paying a cost-share percentage allowed under this
19 subchapter, reimburse a landowner or land user a pre-approved
20 amount for engineering services, other than those provided by the
21 land conservation committee, that are needed to design and
22 certify the cost-shared practice. These services may be provided
23 by a professional engineer registered under ch. 443, Stats., or
24 by an agricultural engineering practitioner certified at the
25 applicable rating under s. ATCP 50.95. The amount of
26 reimbursement for engineering services under this subsection may

1 not exceed 70% of the actual cost of the engineering services, or
2 15% of the total cost of the designed practice that is eligible
3 for cost-sharing, whichever is less. A payment for engineering
4 design services under this subsection may exceed the maximum
5 amounts specified under sub. (7) (d) and s. ATCP 50.56(3).

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

9 (b) No annual incentive payment under this chapter may exceed
10 \$1,000 except with the department's specific written
11 authorization.

12 (c) No cost-share grant to relocate an animal feeding
13 operation may exceed 70 percent of the estimated cost to install
14 a manure management system or related practices needed to resolve
15 or prevent water quality problems at the abandoned site or 70
16 percent of the eligible relocation costs at the new site,
17 whichever site cost is less. Not more than \$5,000 of the cost-
18 share grant may be used to transport livestock from the abandoned
19 site to the new site.

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

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

28 (e) A cost-share grant for intensive grazing management under

1 s. ATCP 50.76 may not include more than \$2,000 for a watering
2 system.

3 ATCP 50.56 ECONOMIC HARDSHIP; COST-SHARE RATES AND MAXIMUM

4 PAYMENTS. (1) HIGHER COST-SHARE RATE ALLOWED. The department
5 or county land conservation committee may make cost-share
6 payments for the following practices at the following maximum
7 cost-share rates if the department makes all of the written
8 findings under sub. (2):

9 PRACTICE	COST-SHARE	RATE (%)
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10 (a) Manure storage system; general		
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11 1. First \$20,000 of eligible costs		85
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12 2. Eligible costs over \$20,000		75
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13 (b) Manure storage system required to comply 14 with shoreland management zoning 15 ordinance enacted under s. 92.17, Stats.		90
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16 (c) Barnyard runoff control system; general		
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17 1. First \$20,000 of eligible costs		85
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18 2. Eligible costs over \$20,000		75
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19 (d) Barnyard runoff control system required to 20 comply with shoreland management zoning 21 ordinance enacted under s. 92.17, Stats.		90
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27 (2) FINDINGS REQUIRED. The department or county land
28 conservation committee may not make a payment under sub. (1)
29 unless the department makes all of the following findings in
30 writing, based on documentation filed with the department:

31 (a) The practice is required in order for a landowner or land
32 user to comply with a notice of discharge issued under ch. 147,
33 Stats., or a shoreland management zoning ordinance enacted under

1 s. 92.17, Stats.

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

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

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

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

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

22 SUBCHAPTER VI

23 PRACTICES ELIGIBLE FOR COST-SHARE GRANTS

24
25 ATCP 50.60 General
26 ATCP 50.62 Manure Storage Systems
27 ATCP 50.63 Manure Storage System Abandonment
28 ATCP 50.64 Barnyard Runoff Control Systems
29 ATCP 50.66 Access Roads and Cattle Crossings
30 ATCP 50.67 Cattle Mounds
31 ATCP 50.68 Conservation Tillage
32 ATCP 50.69 Contour Farming
33 ATCP 50.70 Critical Area Stabilization
34 ATCP 50.71 Diversions

- 1 ATCP 50.72 Field Windbreaks
- 2 ATCP 50.73 Filter Strips
- 3 ATCP 50.74 Grade Stabilization Structures
- 4 ATCP 50.75 Heavy Use Area Protection
- 5 ATCP 50.76 Intensive Grazing Management
- 6 ATCP 50.77 Livestock Fencing
- 7 ATCP 50.78 Livestock Watering Facilities
- 8 ATCP 50.79 Milking Center Waste Control Systems
- 9 ATCP 50.80 Nutrient and Pesticide Management
- 10 ATCP 50.81 Relocating or Abandoning Animal Feeding Operations
- 11 ATCP 50.82 Roofs
- 12 ATCP 50.83 Roof Runoff Systems
- 13 ATCP 50.84 Sediment Basins
- 14 ATCP 50.85 Streambank and Shoreline Protection
- 15 ATCP 50.86 Strip-Cropping
- 16 ATCP 50.87 Subsurface Drains
- 17 ATCP 50.88 Terrace Systems
- 18 ATCP 50.89 Underground Outlets
- 19 ATCP 50.90 Waste Transfer Systems
- 20 ATCP 50.91 Water and Sediment Control Basins
- 21 ATCP 50.92 Waterway Systems
- 22 ATCP 50.93 Well Abandonment
- 23 ATCP 50.94 Wetland Development or Restoration

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

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

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

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

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

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

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

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

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

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

26 ATCP 50.62 MANURE STORAGE SYSTEMS. (1) DEFINITIONS. In
27 this section:

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

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

5 1. A manure storage system.

6 2. A barnyard runoff control system as defined in s. ATCP
7 50.64(1).

8 3. Nutrient management as defined in s. ATCP 50.80(1)(a).

9 4. Manure storage system abandonment as defined in s. ATCP
10 50.63(1)(b).

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

17 (d) "Manure storage structure" means a vessel used to contain
18 and store manure on a temporary basis. "Manure storage
19 structure" does not include equipment used to apply manure to
20 land.

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

25 1. A milking center waste control system.

26 2. Nutrient management as defined in s. ATCP 50.80(1)(a).

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

3 4. Equipment used to apply manure to land.

4 (2) DEPARTMENT COST-SHARE GRANT. The department may award a
5 cost-share grant for a manure storage system if the department
6 finds that the system is needed in order for a landowner or land
7 user to comply with a DNR notice of discharge under ch. 147,
8 Stats., or a shoreland management ordinance adopted under s.
9 92.17, Stats.

10 NOTE: Whenever DNR issues a notice of discharge under ch.
11 147, Stats., to a farmer who operates an animal feeding
12 operation, the department will notify the farmer that the
13 farmer may apply to the department for a cost-share grant
14 for practices needed to comply with the DNR notice of
15 discharge. Often, the department (or the county land
16 conservation committee, at the request of the department)
17 will also inspect the animal feeding operation and
18 recommend cost-effective measures that the farmer may take
19 to comply with the DNR notice. A county may contract with
20 the department to disburse cost-share grant funds to a
21 landowner or land user.

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

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

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

31 (4) GRANTS FOR MANURE STORAGE SYSTEMS; DISQUALIFYING
32 CONDITIONS. Neither the department nor a county land

1 conservation committee may award a cost-share grant for a manure
2 storage system if the department finds any of the following:

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

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

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

10 (d) The grant applicant holds a Wisconsin pollution discharge
11 elimination system permit for the animal feeding operation under
12 s. 147.02, Stats.

13 (e) The compliance deadline specified in the DNR notice of
14 discharge has passed, or DNR has withdrawn the notice.

15 Eligibility may be extended or restored to a grant applicant if
16 the department, the DNR and the grant applicant agree to the
17 extension or restoration.

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

- 22 1. The department.
- 23 2. The county land conservation committee.
- 24 3. The DNR.
- 25 4. The NRCS.

26 (g) The pollution discharge resulted from the grant

1 applicant's violation of a local manure storage ordinance or
2 shoreland management ordinance.

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

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

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

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

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

15 (a) Costs to design a manure storage system that is not
16 constructed, except as authorized under s. ATCP 50.40(2)(e).

17 (b) Costs to construct, modify or support a building. This
18 paragraph does not apply to a modification that is essential for
19 the installation of a manure storage system, or to the
20 construction of a roof pursuant to s. ATCP 50.82.

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

22 (d) Any manure storage system costs related to an animal
23 feeding operation if all of the manure from that operation could
24 be applied to land according to technical guide nutrient
25 management standard 590 without causing or aggravating a water
26 quality problem. This paragraph does not apply to the repair or

1 modification of an existing manure storage system if all of the
2 following apply:

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

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

7 3. The grant recipient has made a substantial investment in
8 the system, and will lose that investment if the system is not
9 repaired or modified.

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

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

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

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

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

1 (7) MANURE STORAGE SYSTEMS; DESIGN, CONSTRUCTION AND
2 MAINTENANCE STANDARDS. A cost-share grant under this section may
3 not reimburse any costs related to a manure storage system unless
4 all of the following conditions are met:

5 (a) The system capacity is necessary to store the manure
6 produced by the animal feeding operation over a normal period of
7 30 to 210 days, as verified by a nutrient management plan or an
8 operation and maintenance plan. If the grant applicant chooses a
9 system with additional capacity, the cost-share grant will be
10 prorated based on the eligible capacity.

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

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

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

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

- 19 1. Technical guide waste management system standard 312.
- 20 2. Technical guide waste storage structure standard 313.
- 21 3. Technical guide waste transfer standard 358.
- 22 4. Technical guide waste treatment lagoon standard 359.
- 23 5. Technical guide fencing standard 382.
- 24 6. Technical guide waste storage pond standard 425.
- 25 7. Technical guide heavy use area protection standard 561.
- 26 8. Other standards specified by the department.

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

6 **ATCP 50.63 MANURE STORAGE SYSTEM ABANDONMENT.** (1)

7 DEFINITIONS. In this section:

8 (a) "Manure storage system" has the meaning given in s. ATCP
9 50.62(1)(e).

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

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

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

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

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

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

25 (3) ELIGIBLE COSTS. A cost-share grant may reimburse any of
26 the following costs related to the abandonment of manure storage

1 system:

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

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

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

8 (4) INELIGIBLE COSTS. A cost-share grant under this section
9 may not reimburse the costs of removing or spreading manure that
10 can be removed using conventional equipment and routine
11 agricultural practices.

12 (5) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
13 share grant may not reimburse any costs related to the
14 abandonment of a manure storage system unless the abandonment
15 plan is approved by the department, or the abandonment plan
16 complies with the provisions of an ordinance approved by the
17 department under s. ATCP 50.964 as meeting the requirements of s.
18 ATCP 50.96(10).

19 NOTE: Manure storage ordinances and manure storage
20 abandonment plans may be submitted to the department for
21 review and approval under s. ATCP 50.964.

22 **ATCP 50.64 BARNYARD RUNOFF CONTROL SYSTEMS.** (1) DEFINITION.

23 In this section, "barnyard runoff control system" means a system
24 of facilities or practices used to contain, divert, retard, treat
25 or otherwise control the discharge of runoff from outdoor areas
26 of concentrated livestock activity. A "barnyard runoff control
27 system" may include any of the following components which is

- 1 necessary to contain, divert, retard, treat or control surface
2 water runoff:
- 3 (a) Access roads or cattle crossings under s. ATCP 50.66.
 - 4 (b) Cattle mounds under s. ATCP 50.67.
 - 5 (c) Critical area stabilization under s. ATCP 50.70.
 - 6 (d) Diversions under s. ATCP 50.71.
 - 7 (e) Filter strips or buffer strips under s. ATCP 50.73.
 - 8 (f) Heavy use area protection under s. ATCP 50.75.
 - 9 (g) Intensive grazing management under s. ATCP 50.76.
 - 10 (h) Lined or grassed waterways under s. ATCP 50.92.
 - 11 (i) Livestock fencing under s. ATCP 50.77.
 - 12 (j) Livestock watering facilities under s. ATCP 50.78.
 - 13 (k) Manure storage systems under s. ATCP 50.62 that are
14 needed to collect and contain barnyard runoff.
 - 15 (L) Nutrient and pesticide management under s. ATCP 50.80.
 - 16 (m) Relocating or abandoning animal feeding operations under
17 s. ATCP 50.81.
 - 18 (n) Roofs under s. ATCP 50.82.
 - 19 (o) Roof runoff systems under s. ATCP 50.83.
 - 20 (p) Sediment basins under s. ATCP 50.84.
 - 21 (q) Streambank and shoreline protection under s. ATCP 50.85.
 - 22 (r) Subsurface drains under s. ATCP 50.87.
 - 23 (s) Underground outlets under s. ATCP 50.89.
 - 24 (t) Waste transfer systems under s. ATCP 50.90.
 - 25 (u) Water and sediment control basins under s. ATCP 50.91.
 - 26 (v) Well abandonment under s. ATCP 50.93.

1 (2) DEPARTMENT COST-SHARE GRANT. The department may award a
2 cost-share grant for a barnyard runoff control system if the
3 department finds that the system is needed in order for a
4 landowner or land user to comply with a DNR notice of discharge
5 under ch. 147, Stats., or a shoreland management ordinance
6 adopted under s. 92.17, Stats.

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

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

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

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

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

28 (c) The barnyard runoff control system will not be adequate
29 to achieve compliance with the DNR notice of discharge, or with

1 the shoreland management ordinance.

2 (d) The grant applicant holds a Wisconsin pollution discharge
3 elimination system permit for the animal feeding operation under
4 s. 147.02, Stats.

5 (e) The compliance deadline specified in the DNR notice of
6 discharge has passed, or DNR has withdrawn the notice.

7 Eligibility may be extended or restored to a grant applicant if
8 the department, the DNR and the grant applicant agree to the
9 extension or restoration.

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

- 14 1. The department.
- 15 2. The county land conservation committee.
- 16 3. The DNR.
- 17 4. The NRCS.

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

20 (5) ELIGIBLE COSTS. A cost-share grant may reimburse any of
21 the following costs related to a barnyard runoff control system:

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

24 (b) Costs to establish permanent vegetative cover, or to
25 provide temporary cover pending the establishment of permanent
26 cover. This may include costs for mulch, fertilizer, seed and

1 other necessary materials.

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

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

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

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

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

19 (e) Any barnyard runoff control system costs related to
20 changes in livestock numbers, housing or management practices
21 that occurred within 3 years of the grant application date. The
22 department or county land conservation committee may award a
23 cost-share grant for practices or systems based on the costs to
24 correct the discharge occurring prior to the change.

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

1 (7) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
2 share grant may not reimburse any costs related to a barnyard
3 runoff control system unless all of the following conditions are
4 met:

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

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

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

17 **ATCP 50.66 ACCESS ROADS AND CATTLE CROSSINGS.** (1)

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

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

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

1 are met:

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

- 4 1. Technical guide access road standard 560.
- 5 2. Technical guide streambank and shoreline protection
6 standard 580.
- 7 3. Technical guide fencing standard 382.

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

11 **ATCP 50.67 CATTLE MOUNDS.** (1) DEFINITION. In this section,

12 "cattle mound" means an earthen mound installed to provide a well
13 drained and stable surface for livestock concentrated in a
14 feedlot, barnyard or other outdoor area.

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

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

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

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

27 (3) ELIGIBLE COSTS. A cost-share grant may reimburse the
28 cost of designing and constructing a cattle mound, including

1 costs for necessary runoff treatment practices and costs for
2 fencing to confine the livestock to the mound area.

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

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

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

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

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

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

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

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

26 (e) The grant recipient agrees to maintain the cattle mound

1 for 10 years unless farming operations on the affected land are
2 discontinued.

3 **ATCP 50.68 CONSERVATION TILLAGE.** (1) DEFINITION. In this

4 section, "conservation tillage" means either of the following:

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

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

14 (2) ELIGIBLE COSTS. A cost-share grant may reimburse, for up
15 to 3 years, costs for any of the following conservation tillage
16 practices:

17 (a) No-till practices.

18 (b) Chisel plowing.

19 (c) Disking.

20 (d) Till-planting practices.

21 (e) Other, similar practices.

22 (3) COSTS BASED ON PREVAILING CHARGES FOR CUSTOM TILLAGE.

23 The department or the county land conservation committee shall
24 determine conservation tillage costs based on prevailing prices
25 charged by providers of custom conservation tillage services in
26 the surrounding area.

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

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

8 (a) Land subject to conservation tillage is protected from
9 erosion from the time of harvest until after the next planting.
10 Protection may be provided by a cover crop residue or temporary
11 cover or other approved practice. The residue, temporary cover
12 or other approved practice shall cover at least 30 percent of the
13 land.

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

17 (c) The conservation tillage complies with technical guide
18 conservation tillage standard 329.

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

23 **ATCP 50.69 CONTOUR FARMING.** (1) DEFINITION. In this
24 section, "contour farming" means plowing, preparing, planting and
25 cultivating sloping land on the contour and along established
26 grades of terraces or diversions.

1 (2) ELIGIBLE COSTS. A cost-share grant may reimburse costs
2 to establish a contour farming system, including necessary costs
3 to remove obstacles and install subsurface drains.

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

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

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

13 1. Technical guide contour farming standard 330.

14 2. Technical guide obstruction removal standard 500.

15 3. Technical guide subsurface drain standard 606.

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

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

26 (2) ELIGIBLE COSTS. A cost-share grant may reimburse the

1 following critical area stabilization costs:

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

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

9 (c) Preparatory shaping and smoothing operations.

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

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

- 15 1. Technical guide critical area planting standard 342.
- 16 2. Technical guide fencing standard 382.
- 17 3. Technical guide field border standard 386.
- 18 4. Technical guide livestock exclusion standard 472.
- 19 5. Technical guide mulching standard 484.
- 20 6. Technical guide tree planting standard 612.

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

24 **ATCP 50.71 DIVERSIONS.** (1) DEFINITION. In this section,
25 "diversion" means a structure installed to divert excess surface
26 runoff water to an area where it can be used, transported or

1 discharged without causing excessive soil erosion. "Diversion"
2 includes a channel with a supporting earthen ridge on the lower
3 side, constructed across the slope with a self-discharging and
4 non-erosive gradient.

5 (2) ELIGIBLE COSTS. A cost-share grant may reimburse any of
6 the following costs to establish a diversion system:

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

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

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

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

19 (e) Costs to establish permanent vegetative cover, or to
20 provide temporary cover until permanent cover is established.

21 This may include costs for mulch, fertilizer and other necessary
22 materials. Trees planted with cost-share funds may not be
23 harvested commercially for 10 years.

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

25 (3) INELIGIBLE COSTS. A cost-share grant may not be used to
26 install ditches or dikes that are designed to drain or impound

1 water for later use, or that will be a part of a regular
2 irrigation system.

3 (4) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
4 share grant may not reimburse any costs to establish a diversion
5 system unless all of the following conditions are met:

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

8 (b) The diversion complies with all of the following that
9 apply:

10 1. Technical guide critical area planting standard 342.

11 2. Technical guide dike standard 356.

12 3. Technical guide diversion standard 362.

13 4. Technical guide fencing standard 382.

14 5. Technical guide grassed waterway standard 412.

15 6. Technical guide lined waterway or outlet standard 468.

16 7. Technical guide obstruction removal standard 500.

17 8. Technical guide subsurface drain standard 606.

18 9. Technical guide underground outlet standard 620.

19 (c) The grant recipient agrees to maintain the diversion for
20 10 years unless farming operations on the affected land are
21 discontinued.

22 **ATCP 50.72 FIELD WINDBREAKS.** (1) DEFINITION. In this
23 section, "field windbreak" means a strip or belt of trees, shrubs
24 or grasses established or restored within or adjacent to a field,
25 so as to control soil erosion by reducing wind velocities at the
26 land surface.

1 (2) ELIGIBLE COSTS. A cost-share grant may reimburse the
2 cost of planting trees, shrubs or grasses to protect farm fields
3 from wind erosion.

4 (3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
5 share grant may not reimburse field windbreak costs unless all of
6 the following conditions are met:

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

8 (b) The windbreak complies with all of the following that
9 apply:

10 1. Technical guide fencing standard 382.

11 2. Technical guide field windbreaks standard 392.

12 3. Technical guide livestock exclusion standard 472.

13 (c) The grant recipient agrees to maintain the windbreak for
14 10 years unless farming operations on the affected land are
15 discontinued.

16 ATCP 50.73 FILTER STRIPS. (1) ELIGIBLE COSTS. A cost-share
17 grant may reimburse the following filter strip costs:

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

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

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

25 (2) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
26 share grant may not reimburse filter strip costs unless all of

1 the following conditions are met:

2 (a) The filter strip complies with all of the following that
3 apply:

- 4 1. Technical guide critical area planting standard 342.
- 5 2. Technical guide fencing standard 382.
- 6 3. Technical guide field border standard 386.
- 7 4. Technical guide filter strip standard 393.
- 8 5. Technical guide livestock exclusion standard 472.
- 9 6. Technical guide mulching standard 484.

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

13 **ATCP 50.74 GRADE STABILIZATION STRUCTURES.** (1) DEFINITION.

14 In this section, "grade stabilization structure" means a
15 structure which stabilizes the grade in a channel in order to
16 protect the channel from erosion, or to prevent gullies from
17 forming or advancing. A "grade stabilization structure" may
18 include any of the following:

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

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

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

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

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

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

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

8 (3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
9 share grant may not reimburse any cost related to a grade
10 stabilization structure unless all of the following conditions
11 are met:

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

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

17 (c) DNR pre-approves the structure in writing if the
18 structure is adjacent to a navigable stream or a stream
19 supporting a fishery.

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

- 22 1. Technical guide critical area planting standard 342.
- 23 2. Technical guide diversion dam standard 348.
- 24 3. Technical guide sediment basin standard 350.
- 25 4. Technical guide dike standard 356.
- 26 5. Technical guide fencing standard 382.

1 6. Technical guide floodway standard 404.

2 7. Technical guide grade stabilization structure standard
3 410.

4 8. Technical guide grassed waterway standard 412.

5 9. Technical guide lined waterway or outlet standard 468.

6 10. Technical guide mulching standard 484.

7 11. Technical guide subsurface drain standard 606.

8 12. Technical guide underground outlet standard 620.

9 13. Technical guide water and sediment control basin standard
10 638.

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

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

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

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

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

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

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

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

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

- 12 1. Technical guide critical area planting standard 342.
- 13 2. Technical guide fencing standard 382.
- 14 3. Technical guide heavy use area protection standard 561.
- 15 4. Technical guide waste management system standard 312.

16 (b) The grant recipient agrees to maintain the heavy use area
17 protection for 10 years unless farming operations on the affected
18 land are discontinued.

19 **ATCP 50.76 INTENSIVE GRAZING MANAGEMENT.** (1) DEFINITION.

20 In this section, "intensive grazing management" or "rotational
21 grazing" means a grazing system which divides pastures into
22 multiple cells, each of which is grazed intensively for a short
23 period and then protected from grazing until its vegetative cover
24 is restored.

25 NOTE: Intensive grazing management systems can prevent
26 degradation resulting from other pasturing practices.
27 Intensive grazing management systems should replace summer
28 dirt lots when they result in water quality degradation.

1 (2) ELIGIBLE COSTS. A cost-share grant may reimburse the
2 cost of replacing animal lots or pastures, or establishing an
3 intensive grazing management system on croplands, that are
4 currently contributing sediments, nutrients or pesticides to a
5 water resource. This may include any of the following costs:

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

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

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

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

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

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

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

- 25 1. Technical guide critical area planting standard 342.
- 26 2. Technical guide pasture and hayland planting standard 512.
- 27 3. Technical guide pasture and hayland management standard

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

9 NOTE: Copies of "Wisconsin pastures for profit: a hands on

10 guide to rotational grazing" are on file with the

11 department, the secretary of state and the revisor of

12 statutes. Copies may be purchased from the department or

13 from the university of Wisconsin-extension (UWEX Pub. No.

14 A3529).

15 (b) The grant recipient agrees to maintain the intensive

16 grazing management practices for 10 years unless farming

17 operations on the affected land are discontinued.

18 ATCP 50.77 LIVESTOCK FENCING. (1) DEFINITION. In this

19 section, "livestock fencing" means either of the following:

20 (a) Excluding livestock, by fencing or other means, in order

21 to protect an erodible area or a practice under this subchapter.

22 (b) Restricting, by fencing or other means, human access to

23 manure storage structures or other practices under this

24 subchapter which may pose a hazard to humans.

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

26 may reimburse costs for livestock fencing, including the cost of

27 designing and installing permanent fencing, gates and related

28 devices.

29 (3) INELIGIBLE COSTS. A cost-share grant under this section

1 may not reimburse the costs for any of the following:

2 (a) Electric fence energizers.

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

5 (c) Fencing, gates or other equipment used primarily for the
6 purpose of segregating, handling, or feeding livestock, rather
7 than to protect an erodible area or a practice under this
8 subchapter.

9 (4) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
10 share grant may not reimburse livestock fencing costs unless all
11 of the following conditions are met:

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

14 1. Technical guide fencing standard 382.

15 2. Technical guide livestock exclusion standard 472.

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

19 **ATCP 50.78 LIVESTOCK WATERING FACILITIES.** (1) DEFINITION.

20 In this section, "livestock watering facility" means a trough,
21 tank, pipe, conduit, spring development, pump, well, or other
22 device or combination of devices installed to deliver drinking
23 water to livestock.

24 (2) WHEN ELIGIBLE. A cost-share grant may reimburse costs to
25 establish a livestock watering facility if the livestock watering
26 facility is a necessary component of an intensive grazing

1 management system funded under s. ATCP 50.76, or if all of the
2 following conditions are met:

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

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

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

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

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

14 (3) ELIGIBLE COSTS. A cost-share grant under this section
15 may reimburse the cost of designing and constructing a livestock
16 watering facility.

17 (4) INELIGIBLE COSTS. A cost-share grant under this section
18 may not reimburse costs for any of the following:

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

26 NOTE: Under s. ATCP 50.54(7)(e), there is a \$2000 cap on the
27 maximum amount that may be reimbursed for a livestock

1 watering system in intensive grazing management. The
2 system may contain one or more watering facilities.

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

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

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

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

- 14 1. Technical guide spring development standard 574.
- 15 2. Technical guide trough and tank standard 614.
- 16 3. Technical guide well standard 642.
- 17 4. Technical guide pipeline standard 516.
- 18 5. Ch. NR 812, related to well construction and pump
19 installation.

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

23 **ATCP 50.79 MILKING CENTER WASTE CONTROL SYSTEMS.** (1)

24 DEFINITIONS. In this section:

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

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

4 (2) WHEN ELIGIBLE. (a) The department may award a cost-
5 share grant for a milking center waste control system if that
6 system is constructed in conjunction with a manure management
7 system needed to comply with a DNR notice of discharge under ch.
8 147, Stats.

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

12 (3) ELIGIBLE COSTS. A cost-share grant may reimburse any of
13 the following costs related to a milking center waste control
14 system:

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

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

21 (c) Other milking center waste control measures, approved by
22 the department, that are needed to meet identified water quality
23 objectives. These measures may include conservation sinks, pre-
24 cooler water utilization systems, manifold cleaning systems, air
25 injection systems, filter strips used with appropriate waste
26 pretreatment measures, recyclable water storage and plumbing for

1 automatic water and cleaning chemicals controls, waste milk
2 diverter valves and booster pumps for parlor floor cleaning.

3 (4) INELIGIBLE COSTS. A cost-share grant may not reimburse
4 any of the following costs related to a milking center waste
5 control system:

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

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

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

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

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

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

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

26 2. Technical guide filter strip standard 393.

27 3. Technical guide irrigation system standard 442.

28 4. Technical guide waste storage structure standard 313.

29 5. Technical guide waste transfer standard 358.

1 6. Technical guide nutrient management standard 590.

2 7. Technical guide waste storage pond standard 425.

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

6 **ATCP 50.80 NUTRIENT AND PESTICIDE MANAGEMENT.** (1)

7 DEFINITIONS. In this section: (a) "Nutrient management" means
8 controlling the amount, source, form, location and timing of
9 plant nutrient applications, including application of organic
10 wastes, commercial fertilizers, soil reserves and legumes, in
11 order to provide plant nutrients while minimizing the movement of
12 nutrients to surface water and groundwater.

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

17 (2) ELIGIBLE COSTS; GENERAL. A cost-share grant may
18 reimburse, for up to 3 years, any of the following costs related
19 to nutrient and pesticide management:

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

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

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

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

1 NOTE: The 3 years of reimbursement for nutrient and pesticide
2 management need not be 3 consecutive years.

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

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

8 1. Technical guide nutrient management standard 590.

9 2. Technical guide pesticide management standard 595.

10 3. Pesticide mixing and loading standards under s. ATCP
11 29.151.

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

15 **ATCP 50.81 RELOCATING OR ABANDONING ANIMAL FEEDING**

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

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

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

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

27 (2) WHEN ELIGIBLE. A cost-share grant may reimburse costs

1 incurred for the permanent relocation or abandonment of an animal
2 feeding operation if all of the following conditions are met:

3 (a) The department or the county land conservation committee
4 finds that relocation or abandonment is the most practical and
5 cost-effective way to achieve water quality objectives.

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

8 (c) The owner of the abandoned animal feeding operation
9 agrees, in a covenant that runs with the land, that no person may
10 reestablish an animal feeding operation at that site. The
11 department may waive this requirement if the department finds
12 that the covenant is unnecessary.

13 (d) The covenant under par. (c) is recorded in the office of
14 the register of deeds for each county in which the property is
15 located.

16 (3) ELIGIBLE COSTS. A cost-share grant may reimburse any of
17 the following costs to relocate or abandon an animal feeding
18 operation:

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

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

24 1. Removing concrete paving, fencing, bunks, livestock
25 housing structures, livestock feeding structures and other
26 obstructions.

1 2. Grading and establishing vegetation on the site.

2 3. Excluding livestock from the site.

3 4. Abandoning wells on the site.

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

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

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

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

10 (a) "Roof" means a weather-proof covering that shields an
11 animal lot or manure storage structure from precipitation, and
12 includes the structure supporting that weather-proof covering.
13 "Roof" does not include, except in the case of a manure storage
14 structure, a covering over an enclosed structure if the sum of
15 the length of the walls of the structure exceeds 50 percent of
16 the perimeter of the covering. If a structure includes 2 or more
17 square or rectangular areas, the ratio of wall length to covering
18 perimeter shall be separately calculated for each square or
19 rectangular area, excluding common sides.

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

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

1 objectives.

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

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

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

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

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

14 (a) The roof complies with the american society of
15 agricultural engineers engineering practice number 288.4,
16 December 1992 edition.

17 NOTE: Copies of ASAE EP 288.4 are on file with the
18 department, the secretary of state and the revisor of
19 statutes. Copies may be obtained from the department.

20 (b) The roof structure has sufficient ventilation to protect
21 farm operators, livestock and the roof.

22 (c) The roof and supporting structure are constructed of
23 materials with a life expectancy of 10 years or more.

24 (d) The grant recipient agrees not to establish additional
25 outdoor animal lots on the site, except with adequate runoff
26 control practices approved by the department.

27 (e) The grant recipient agrees not to convert a roofed animal

1 lot structure, cost-shared under this chapter, for use other than
2 as an animal lot.

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

6 **ATCP 50.83 ROOF RUNOFF SYSTEMS.** (1) DEFINITION. In this
7 section, "roof runoff system" means facilities for collecting,
8 controlling, diverting, and disposing of precipitation from
9 roofs. A "roof runoff system" may include gutters, downspouts,
10 erosion-resistant channels, subsurface drains and trenches.

11 (2) ELIGIBLE COSTS. A cost-share grant may reimburse the
12 cost of designing and constructing a roof runoff system as part
13 of a barnyard runoff control system or manure storage system if
14 the roof runoff system is necessary to prevent roof runoff from
15 flowing across areas of concentrated manure.

16 (3) INELIGIBLE COSTS. A cost-share grant under this section
17 may not reimburse the costs for structures which divert water to
18 areas not adequately protected from erosion.

19 (4) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
20 share grant may not reimburse the cost of installing a roof
21 runoff system unless all of the following conditions are met:

22 (a) The roof runoff system complies with all of the following
23 that apply:

- 24 1. Technical guide roof runoff management standard 558.
- 25 2. Technical guide underground outlet standard 620.

26 (b) The grant recipient agrees to maintain the roof runoff

1 system for 10 years unless farming operations on the affected
2 land are discontinued.

3 ATCP 50.84 SEDIMENT BASINS. (1) DEFINITION. In this
4 section, "sediment basins" means permanent basins that reduce the
5 transport of waterborne pollutants such as eroded soil sediment,
6 debris and manure sediment. Sediment basins may include
7 containment walls or berms, pickets or screens to filter debris,
8 orifices or weirs to control discharge, and conduits to direct
9 runoff to treatment or discharge areas.

10 (2) ELIGIBLE COSTS. A cost-share grant may reimburse the
11 cost of designing and constructing a sediment basin, including
12 costs for heavy use area protection, livestock fencing, filter
13 strips, waste transfer, underground outlets, and critical area
14 plantings.

15 (3) INELIGIBLE COSTS. A cost-share grant under this section
16 may not reimburse the costs for any of the following:

17 (a) Basins with a structural height of more than 25 feet or
18 with a maximum storage capacity of more than 50 acre-feet.

19 (b) Basins whose failure may endanger human life.

20 (4) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
21 share grant may not reimburse the cost of installing a sediment
22 basin unless all of the following conditions are met:

23 (a) Filter strips or buffers are used to filter any discharge
24 from the sediment basin.

25 (b) The sediment basin complies with all of the following
26 that apply:

- 1 1. Technical guide waste management system standard 312.
- 2 2. Technical guide critical area planting standard 342.
- 3 3. Technical guide sediment basin standard 350.
- 4 4. Technical guide waste transfer standard 358.
- 5 5. Technical guide fencing standard 382.
- 6 6. Technical guide filter strip standard 393.
- 7 7. Technical guide heavy use area protection standard 561.
- 8 8. Technical guide underground outlet standard 620.

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

12 **ATCP 50.85 STREAMBANK AND SHORELINE PROTECTION.** (1)

13 DEFINITION. In this section, "streambank and shoreline
14 protection" means using vegetation or structures to stabilize and
15 protect the banks of streams, lakes, estuaries or excavated
16 channels against scour and erosion.

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

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

22 (b) Costs to install rock riprap. Wood chunks, unsorted
23 demolition material, brick, plaster, blacktop and other materials
24 that may produce leachates may not be used as riprap. A cost-
25 share grant may reimburse costs for rock and timber riprap used
26 to establish fish habitat as part of a streambank and shoreline

1 protection scheme, provided that reimbursement for fish habitat
2 does not exceed 25% of the cost-share grant.

3 NOTE: Lunker structures, or rock and timber riprap, are
4 sometimes used to create fish habitat.

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

7 (d) Costs to construct or modify stream crossings.

8 (e) Costs to establish permanent vegetative cover, or to
9 provide temporary cover until permanent cover is established.

10 This may include costs for mulch, fertilizer and other necessary
11 materials.

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

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

22 (3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
23 share grant may not reimburse costs for streambank or shoreline
24 protection unless all of the following conditions are met:

25 (a) The streambank or shoreline protection complies with all
26 of the following that apply:

- 27 1. Technical guide critical area planting standard 342.
- 28 2. Technical guide fencing standard 382.
- 29 3. Technical guide streambank and shoreline protection

1 standard 580.

2 4. Technical guide tree planting standard 612.

3 (b) DNR pre-approves the streambank or shoreline protection
4 project in writing if the project will create banks higher than
5 15 feet, measured from the stream or lake bed.

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

9 **ATCP 50.86 STRIP-CROPPING.** (1) DEFINITION. In this
10 section, "strip-cropping" means growing crops in a systematic
11 strip arrangement in which strips of grass, legumes or other
12 close growing crops are alternated with strips of clean tilled
13 crops or fallow, and in which all of the strips are established
14 on the contour or across a slope to reduce water or wind erosion.

15 (2) ELIGIBLE COSTS. A cost-share grant may reimburse the
16 cost of establishing a strip-cropping system, including costs for
17 the necessary removal of obstructions or for the necessary
18 installation of subsurface drains.

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

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

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

26 1. Technical guide obstruction removal standard 500.

1 2. Technical guide contour strip-cropping standard 585.

2 3. Technical guide field strip-cropping standard 586.

3 4. Technical guide wind strip-cropping standard 589.

4 5. Technical guide subsurface drain standard 606.

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

8 **ATCP 50.87 SUBSURFACE DRAINS.** (1) DEFINITION. In this
9 section, "subsurface drain" means a conduit installed below the
10 surface of the ground to collect drainage water and convey it to
11 a suitable outlet.

12 (2) ELIGIBLE COSTS. A cost-share grant may reimburse the
13 cost of designing and constructing a subsurface drain as part of
14 a manure storage system, barnyard runoff control system, or
15 erosion control system.

16 (3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
17 share grant may not reimburse the cost of establishing a
18 subsurface drain unless all of the following conditions are met:

19 (a) The subsurface drain is a necessary component of a manure
20 storage system, barnyard runoff control system or erosion control
21 system.

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

24 1. Technical guide subsurface drain standard 606.

25 2. Technical guide underground outlet standard 620.

26 (c) The grant recipient agrees to maintain the subsurface

1 drain for 10 years unless farming operations on the affected land
2 are discontinued.

3 **ATCP 50.88 TERRACE SYSTEMS.** (1) DEFINITION. In this

4 section, "terrace system" means a system of ridges and channels
5 constructed on the contour with a non-erosive grade and suitable
6 spacing.

7 (2) ELIGIBLE COSTS. A cost-share grant may reimburse any of
8 the following costs related to a terrace system:

9 (a) Costs to install the system, including necessary costs
10 for necessary leveling, filling and obstruction removal.

11 (b) Costs to purchase and install necessary underground pipe
12 outlets and other necessary mechanical outlets.

13 (c) Costs to modify an ineffective system, unless the system
14 has been rendered ineffective because of changes in cropping
15 patterns or equipment usage.

16 (d) Costs to establish permanent vegetative cover, or to
17 provide temporary cover until permanent cover is established.
18 This may include costs for mulch, fertilizer and other necessary
19 materials.

20 (3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
21 share grant may not reimburse terrace system costs unless all of
22 the following conditions are met:

23 (a) The terrace system includes a stable outlet or waterway
24 of adequate capacity.

25 (b) The terrace system complies with all of the following
26 that apply:

- 1 1. Technical guide critical area planting standard 342.
- 2 2. Technical guide grassed waterway standard 412.
- 3 3. Technical guide lined waterway or outlet standard 468.
- 4 4. Technical guide obstruction removal standard 500.
- 5 5. Technical guide terrace standard 600.
- 6 6. Technical guide subsurface drain standard 606.
- 7 7. Technical guide underground outlet standard 620.
- 8 8. Technical guide water and sediment control basin standard
- 9 638.

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

13 **ATCP 50.89 UNDERGROUND OUTLETS.** (1) DEFINITION. In this
14 section, "underground outlet" means a conduit installed below the
15 surface of the ground to collect surface water and convey it to a
16 suitable outlet.

17 (2) ELIGIBLE COSTS. A cost-share grant may reimburse the
18 cost of designing and constructing an underground outlet as part
19 of a manure storage system, barnyard runoff control system, or
20 erosion control system.

21 (3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
22 share grant may not reimburse the cost of establishing an
23 underground outlet unless all of the following conditions are
24 met:

25 (a) The underground outlet is a necessary component of a
26 manure storage system, barnyard runoff control system or erosion

1 control system.

2 (b) The underground outlet complies with all of the following
3 that apply:

4 1. Technical guide subsurface drain standard 606.

5 2. Technical guide underground outlet standard 620.

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

9 **ATCP 50.90 WASTE TRANSFER SYSTEMS.** (1) DEFINITION. In this
10 section, "waste transfer system" means components such as pumps,
11 pipes, conduits, valves, and other structures installed to convey
12 manure and milking center wastes from buildings and animal
13 feeding operations to a storage structure, loading area or
14 treatment area.

15 (2) ELIGIBLE COSTS. A cost-share grant may reimburse the
16 cost of designing and constructing a waste transfer system which
17 is a necessary component of a manure storage system, barnyard
18 runoff control system or milking center waste system funded under
19 this chapter, provided that the waste transfer system is designed
20 and used for that sole purpose.

21 (3) INELIGIBLE COSTS. A cost-share grant under this section
22 may not reimburse the costs for any of the following:

23 (a) Portable equipment for spreading wastes on land or for
24 incorporating wastes into land.

25 (b) Buildings or modifications to buildings. This paragraph
26 does not apply to building modifications that are essential for

1 the installation of a milking center waste control system.

2 (4) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
3 share grant may not reimburse the cost of installing a waste
4 transfer system unless all of the following conditions are met:

5 (a) The waste transfer system complies with all of the
6 following that apply:

7 1. Technical guide waste transfer standard 358.

8 2. Technical guide underground outlet standard 620.

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

12 **ATCP 50.91 WATER AND SEDIMENT CONTROL BASINS.** (1)

13 DEFINITION. In this section, "water and sediment control basin"
14 means an earthen embankment or a ridge and channel combination
15 which is constructed across a slope or minor watercourse to trap
16 or detain runoff and sediment. "Water and sediment control
17 basin" does not include a manure storage facility or a structure
18 designed to collect runoff and sediment from concentrated animal
19 feedlots.

20 NOTE: "Manure storage facility" is defined in s. ATCP
21 50.62(1)(c).

22 (2) ELIGIBLE COSTS. A cost-share grant may reimburse the
23 cost of designing and constructing a water and sediment control
24 basin, including practices necessary to protect the basin from
25 livestock.

26 (3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
27 share grant may not reimburse the cost of installing a water and

1 sediment control basin unless all of the following conditions are
2 met:

3 (a) The water and sediment control basin complies with all of
4 the following that apply:

5 1. Technical guide critical area planting standard 342.

6 2. Technical guide fencing standard 382.

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

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

12 **ATCP 50.92 WATERWAY SYSTEMS.** (1) DEFINITION. In this
13 section, "waterway" means a natural or constructed watercourse or
14 outlet that is shaped, graded and covered with a vegetation or
15 another suitable surface material to prevent erosion by runoff
16 waters.

17 (2) ELIGIBLE COSTS. A cost-share grant may reimburse any of
18 the following costs related to a waterway system:

19 (a) Costs for site preparation, grading, shaping and filling.

20 (b) Costs to establish permanent vegetative cover, or to
21 provide temporary cover until permanent cover is established.

22 This may include costs for mulch, fertilizer and other necessary
23 materials.

24 (c) Costs for the necessary removal of obstructions, the
25 necessary installation of subsurface drains, and the necessary
26 installation of machinery crossings.

1 (3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
2 share grant may not reimburse costs for a waterway system unless
3 all of the following conditions are met:

4 (a) Waterways are permanently covered by vegetation or other
5 suitable surface materials to prevent erosion. Close-sown small
6 grains, annual grasses or mulches may be used for temporary
7 protection if followed by an appropriate permanent vegetative
8 cover.

9 (b) The system complies with all of the following that apply:

10 1. Technical guide critical area planting standard 342.

11 2. Technical guide fencing standard 382.

12 3. Technical guide grassed waterway standard 412.

13 4. Technical guide mulching standard 484.

14 5. Technical guide subsurface drain standard 606.

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

18 **ATCP 50.93 WELL ABANDONMENT.** (1) DEFINITION. In this
19 section, "well abandonment" means permanently disabling and
20 sealing a well to prevent contaminants from reaching groundwater.

21 (2) ELIGIBLE COSTS. A cost-share grant may reimburse costs
22 to design and implement a well abandonment, including costs to
23 fill the well, seal the well, and shape the land to protect the
24 abandoned wellhead from precipitation and runoff.

25 (3) DESIGN, CONSTRUCTION AND MAINTENANCE STANDARDS. A cost-
26 share grant may not reimburse the cost of well abandonment unless

1 the well abandonment complies with all of the following that
2 apply:

3 (a) Technical guide well standard 642.

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

6 **ATCP 50.94 WETLAND DEVELOPMENT OR RESTORATION.** (1)

7 DEFINITION. In this section, "wetland development or
8 restoration" means the construction of berms, or the destruction
9 of tile line or drainage ditch functions, to create conditions
10 suitable for wetland vegetation.

11 (2) ELIGIBLE COSTS. A cost-share grant may reimburse any of
12 the following costs related to the development or restoration of
13 wetlands:

14 (a) Costs for earth moving to construct or remove berms,
15 levees or dikes.

16 (b) Costs for earth moving to fill in portions of drainage
17 ditches.

18 (c) Costs to destroy portions of tile lines.

19 (d) Costs to establish vegetative cover to develop or restore
20 wetlands, consistent with the practice goals.

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

24 (a) The wetland development or restoration complies with
25 technical guide wetlands development or restoration standard 690.

26 (b) The grant recipient agrees to maintain the wetland

1 restoration practice for at least 10 years.

2
3 **SUBCHAPTER VII**

4 **PERSONNEL CERTIFICATION AND QUALIFICATIONS**

5 ATCP 50.95 Agricultural Engineering Practitioner; Certification
6 ATCP 50.952 Nutrient Management Planner; Qualifications
7 ATCP 50.954 Training for County Staff

8
9 NOTE: Among other things, this subchapter creates a
10 certification program for county land conservation
11 committee staff and others who review or engage in
12 agricultural engineering practices under this chapter or s.
13 144.25, Stats.

14
15 Previously, individuals were authorized to review or
16 perform agricultural engineering practices if they were
17 registered as professional engineers under ch. 443, Stats.,
18 or were certified by the United States department of
19 agriculture natural resources conservation service
20 (formerly soil conservation service).

21
22 The certification program under this subchapter is similar
23 to the federal program. The department's field engineers
24 certify applicants at specified levels based on their
25 knowledge, training and experience. An applicant may
26 appeal a certification decision through an informal hearing
27 or a formal contested case before the department. State
28 and county employes certified under this program are exempt
29 from the professional engineering registration requirements
30 of ch. 443, Stats., when engaged in soil and water
31 conservation activities under ch. 92 and s. 144.25, Stats.,
32 whether or not those activities are funded under this
33 chapter.

34 **ATCP 50.95 AGRICULTURAL ENGINEERING PRACTITIONER;**

35 **CERTIFICATION.** (1) CERTIFICATION REQUIRED. No person, other
36 than a professional engineer registered under ch. 443, Stats.,
37 may certify any of the following for funding purposes under this
38 chapter or s. 144.25, Stats., unless that person is certified as
39 an agricultural engineering practitioner under this section:

40 (a) That design specifications for an agricultural

1 engineering practice under sub. (2) comply with standards under
2 this chapter or s. 144.25, Stats.

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

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

17 NOTE: See ss. 92.18 and 443.14(10), Stats. A registered
18 professional engineer and persons working under a
19 registered professional engineer's direct supervision, as
20 well as employees of the NRCS, may also seek certification
21 under this section. Any state or county employee certified
22 under this subchapter is exempt from the professional
23 engineering registration requirements of ch. 443, Stats.,
24 when engaged in activities under ch. 92 or s. 144.25,
25 Stats., regardless of whether the activities are funded
26 under this chapter.

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

30 (a) An access road.

31 (b) A dam.

32 (c) A sediment basin.

33 (d) A pond.

34 (e) A grade stabilization structure.

35 (f) A structure for water control.

36 (g) A diversion.

- 1 (h) A filter strip.
- 2 (i) A grassed waterway.
- 3 (j) Heavy use area protection.
- 4 (k) A lined waterway or outlet.
- 5 (L) An open channel.
- 6 (m) A pipeline for livestock water supply.
- 7 (n) Sealing or lining for water ponds.
- 8 (o) Roof runoff management.
- 9 (p) Spring development.
- 10 (q) Streambank and shoreline protection.
- 11 (r) Stream channel stabilization.
- 12 (s) A subsurface drain.
- 13 (t) A surface drainage field ditch.
- 14 (u) A surface drainage main or lateral.
- 15 (v) A terrace.
- 16 (w) A trough or tank.
- 17 (x) An underground outlet.
- 18 (y) A waste or manure management system.
- 19 (z) A waste or manure storage facility.
- 20 (aa) A waste or manure transfer system.
- 21 (bb) A water and sediment control basin.
- 22 (cc) Wetland development or restoration.
- 23 (dd) Well abandonment.
- 24 (3) APPLYING FOR CERTIFICATION. A person who wishes to be
- 25 certified as an agricultural engineering practitioner shall apply
- 26 to the department or a county land conservation committee. An

1 applicant may apply orally or in writing. The department or the
2 county land conservation committee shall promptly refer the
3 application to the department's designated field engineer. The
4 field engineer shall evaluate the applicant and issue a decision
5 granting or denying the request.

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

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

18 (b) To evaluate an applicant, the department's field engineer
19 may conduct interviews, perform inspections, and require answers
20 and documentation from the applicant. The field engineer may ask
21 engineering staff from the United States department of
22 agriculture, natural resources conservation service, to assist in
23 evaluating an applicant.

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

1 1. Certify that design specifications for jobs in that class
2 comply with standards under this chapter or s. 144.25, Stats.

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

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

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

21 (c) No certified agricultural engineering practitioner may,
22 for funding purposes under this chapter or s. 144.25, Stats.,
23 certify any matter under par. (a) in a job class more complex
24 than that for which the practitioner is authorized under par.
25 (a).

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

1 engineer.

2 NOTE: When recertifying an applicant who was
3 previously certified by the department or the United States
4 department of agriculture, the department's field engineer
5 may raise one or more rating levels, lower one or more
6 rating levels, or reaffirm one or more rating levels.

7 (b) Whenever the department's field engineer certifies an
8 agricultural engineering practitioner, the field engineer shall
9 issue a written certification in the form shown in Appendix A.
10 The certification becomes effective upon signature by all of the
11 following:

- 12 1. The field engineer.
- 13 2. The practitioner certified.
- 14 3. The practitioner's supervisor if any.

15 (c) Whenever the department's field engineer denies a request
16 under sub. (3) for a specific certification rating, the field
17 engineer shall issue the denial in writing and shall specify the
18 reasons for the denial.

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

23 (7) REVIEWING CERTIFICATION RATINGS. (a) A department field
24 engineer shall review each certification rating under sub. (5) at
25 least once every 3 years, but may review it at any time. A field
26 engineer shall review a certification rating whenever a certified
27 agricultural engineering practitioner requests that review.

28 (b) Based on a review under par. (a), a department field

1 engineer shall issue a new certification rating which reaffirms
2 or modifies the prior rating under sub. (5). The field engineer
3 may not reduce any rating except for good cause.

4 (c) A field engineer shall document, in writing, his or her
5 reasons for reducing a certification rating under sub. (5), or
6 for refusing to make a requested change, and shall provide that
7 documentation to the supervisor of the agricultural engineering
8 practitioner, if any. The field engineer shall provide a copy of
9 each new rating, together with any documentation required under
10 this paragraph, to the person rated.

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

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

24 (c) If an appeal cannot be resolved after an informal meeting
25 under par. (b), the field engineer shall forward the appeal to a
26 department reviewer designated by the administrator of the

1 department's agricultural resource management division. The
2 reviewer shall hold an informal hearing on the appeal within 10
3 business days after the reviewer receives the appeal, unless the
4 applicant agrees to a later date for the informal hearing. The
5 reviewer shall hold the informal hearing by telephone or at a
6 location determined by the reviewer. Within 10 business days
7 after the conclusion of the informal hearing, the reviewer shall
8 issue a written decision which reaffirms, modifies or revises the
9 field engineer's action. The reviewer shall provide a copy of
10 his or her written decision to the applicant. The decision shall
11 include a notice of the applicant's right to request a formal
12 contested case hearing under par. (d).

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

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

24 (b) An order suspending or revoking a certification shall be
25 signed by the secretary of the department, or by the secretary's
26 designee. Proceedings to suspend or revoke a certificate shall

1 be conducted according to ch. 227, Stats., and ch. ATCP 1.

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

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

5 1. Any land conservation committee or state agency which
6 employs the person suspended or revoked.

7 2. All state and federal agencies which provide cost-share
8 funds for agricultural engineering practices.

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

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

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

23 **ATCP 50.952 NUTRIENT MANAGEMENT PLANNER; QUALIFICATIONS.** (1)

24 GENERAL. No funding may be provided under this chapter for the
25 development of a nutrient management plan unless the plan is
26 developed by a nutrient management planner who is qualified under

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

4 NOTE: See also NR 120.14(9) and (10).

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

- 8 (a) Compliance with the technical guide.
- 9 (b) Soil testing.
- 10 (c) Calculating nutrient needs on a field-by-field basis.
- 11 (d) Crediting manure, residual legume nitrogen and other
12 nutrient sources on a field-by-field basis.
- 13 (e) Utilizing conservation plans.
- 14 (f) Relevant federal and state laws related to nutrient
15 management.

16 (3) EVIDENCE OF QUALIFICATION. (a) Except as provided under
17 par. (b), a nutrient management planner is considered qualified
18 under sub. (2) if he or she is at least one of the following:

- 19 1. Recognized as a certified professional crop consultant by
20 the national alliance of independent crop consultants.
- 21 2. Recognized as a certified crop advisor by the American
22 society of agronomy, Wisconsin certified crop advisors board.
- 23 3. Registered as a crop scientist, crop specialist, soil
24 scientist, soil specialist or professional agronomist in the
25 American registry of certified professionals in agronomy, crops
26 and soils.

1 4. The holder of other credentials which the department deems
2 equivalent to those specified under subs. 1. to 3.

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

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

11 ATCP 50.954 TRAINING FOR COUNTY STAFF. (1) ROLE OF THE
12 DEPARTMENT. The department, in consultation with the county land
13 conservation committees and the training advisory committee
14 appointed under sub. (2), may do any of the following to ensure
15 adequate training of county land conservation committee staff who
16 administer programs under this chapter or s. 144.25, Stats.:

- 17 (a) Determine training needs and priorities.
18 (b) Identify training opportunities and resources.
19 (c) Make training recommendations.
20 (d) Approve training programs funded under this chapter.
21 (e) Coordinate the delivery of training.
22 (f) Provide training and assess fees to cover training costs.

23 NOTE: The department may exempt county land conservation
24 committee staff from fees which the department charges for
25 training programs which the department provides.

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

1 NOTE: The department guidelines may include suggested courses,
2 training activities, and types of knowledge and experience
3 which may help applicants qualify for certification at
4 specified rating levels.

5 (h) Distribute training funds to counties under s. ATCP
6 50.32.

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

11 (a) The Wisconsin department of natural resources

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

14 (c) The university of Wisconsin-extension.

15 (d) The statewide association of land conservation
16 committees.

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

19
20 **SUBCHAPTER VIII**

21 **ORDINANCES**

22 ATCP 50.96 Manure Storage Ordinances
23 ATCP 50.962 Shoreland Management Ordinances
24 ATCP 50.964 Ordinance Review and Approval

25 **ATCP 50.96 MANURE STORAGE ORDINANCES.** A county, town or
26 municipal ordinance adopted under s. 92.16, Stats., shall include
27 all of the following:

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

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

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

6 (4) The effective date of the ordinance.

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

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

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

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

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

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

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

27 1. Technical guide waste storage pond standard 425.

28 2. Technical guide waste storage structure standard 313, if
29 desired.

1 3. Technical guide waste transfer standard 358, if desired.

2 4. Applicable requirements which DNR requires under s.

3 144.25(4)(g)5., Stats.

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

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

10 NOTE: The monitoring system may be applied to all manure
11 storage systems regardless of the date of construction of
12 the system.

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

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

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

22 (b) Obtains a permit for the abandonment.

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

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

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

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

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

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

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

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

20 NOTE: Abandonment requirements under sub. (10) may be applied
21 to all manure storage systems regardless of the date of
22 construction of the system.

23 **ATCP 50.962 SHORELAND MANAGEMENT ORDINANCES.** A shoreland
24 management ordinance adopted by a county, town or municipality
25 under s. 92.17, Stats., shall include all of the following
26 provisions:

27 (1) The authority of the county, town or municipality to

1 adopt the ordinance.

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

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

7 (4) The effective date of the ordinance.

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

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

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

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

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

19 **ATCP 50.964 ORDINANCE REVIEW AND APPROVAL.** (1) REVIEW BY
20 COUNTY. Before a county, town or municipality adopts or amends a
21 manure storage ordinance under s. 92.16 or a shoreland management
22 ordinance under 92.17, Stats., the county, town or municipality
23 shall refer the proposed ordinance or amendment to the county
24 land conservation committee and the county planning and zoning
25 agency for review and comment.

26 (2) SHORELAND MANAGEMENT ORDINANCES; DEPARTMENT APPROVAL.

1 (a) No county, town or municipality may adopt or amend a
2 shoreland management ordinance under s. 92.17, Stats., without
3 the department's approval. Except as provided under par. (b), a
4 request for approval shall include all of the following:

5 1. A copy of the proposed ordinance or amendment.

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

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

12 4. A statement, by an attorney authorized to practice law in
13 this state, that the attorney has reviewed the ordinance or
14 amendment for compliance with applicable law under ch. 59 to 68,
15 Stats.

16 NOTE: A local jurisdiction may have authority under chs. 59
17 through 66, Stats., to adopt a shoreland management
18 ordinance which the department has not approved. However,
19 the department may not fund projects required under a
20 shoreland management ordinance unless the ordinance is
21 adopted under s. 92.17, Stats., and approved by the
22 department.

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

28 (c) Except when the department approves an ordinance
29 amendment under par. (b), the department shall seek the

1 recommendations of DNR and the land and water conservation board
2 before approving a shoreland management ordinance or amendment.

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

7 (d) The department may not approve a shoreland management
8 ordinance or amendment proposed under s. 92.17, Stats., unless
9 the department finds that the ordinance or amendment reasonably
10 conforms to guidelines which the department adopts under s.
11 92.17, Stats.

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

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

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

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

1 to perform the requested review.

2
3 **SUBCHAPTER IX**

4 **ACCOUNTING, RECORDKEEPING AND PROGRAM REVIEWS**

5 ATCP 50.97 Accounting and Recordkeeping

6 ATCP 50.974 Department Review

7 **ATCP 50.97 ACCOUNTING AND RECORDKEEPING.** (1) GENERAL. A

8 county land conservation committee shall establish and maintain
9 an accounting and recordkeeping system that complies with this
10 subchapter. The accounting and recordkeeping system shall fully
11 and clearly account for the receipt, handling and disposition of
12 all funds which a county land conservation committee receives
13 under this chapter.

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

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

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

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

27 (3) INCENTIVE PAYMENTS. A county land conservation committee

1 shall keep a record of every incentive payment which it makes to
2 a landowner or land user under this chapter. The committee shall
3 keep the record for at least 3 years after the committee makes
4 the last incentive payment. The record shall include all of the
5 following:

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

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

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

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

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

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

25 (2) Require the committee to meet with the department to
26 discuss specific projects, practice design and installation,

1 staffing, committee files and recordkeeping, and procedures and
2 preparation for fiscal audits.

3 (3) Inspect and copy records.

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

6
7 **EFFECTIVE DATE.** The rules contained in this order shall take
8 effect on the first day of the month following publication in the
9 Wisconsin administrative register, as provided under s.
10 227.22(2) (intro.), Stats.

11
12 Dated this 4th day of October, 1996.

13
14 STATE OF WISCONSIN
15 DEPARTMENT OF AGRICULTURE,
16 TRADE AND CONSUMER PROTECTION

17
18
19 By 
20 Alan T. Tracy, Secretary
21
22

**WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION
AGRICULTURAL ENGINEERING PRACTITIONER;
CERTIFICATION**

PRACTITIONER	OFFICE	Original	Revised	Revised
(SIGNATURE) _____	TITLE _____	DATE _____	DATE _____	DATE _____
CONCURRED BY _____	TITLE Supervisor	DATE _____	DATE _____	DATE _____
CERTIFIED BY _____	TITLE DATCP Agricultural Engineer	DATE _____	DATE _____	DATE _____
CONCURRED BY _____	TITLE _____	DATE _____	DATE _____	DATE _____

STD. CODE	PRACTICE	SUB-PRACTICE	CONTROLLING FACTORS	UNITS	JOB CLASS					CERTIFICATION RATING	
					I	II	III	IV	V	DESIGN	CONST
560	ACCESS ROAD		GRADE	%	10	ALL					
		CULVERT	DRAINAGE AREA	ACRES	10	20	40	160	ALL		
		LIVESTOCK AND EQUIPMENT STREAM CROSSING	VELOCITY	F.P.S.	4	6	8	10	ALL		
410	GRADE STABILIZATION STRUCTURE	EARTHEN EMBANKMENTS	HAZARD	CLASS	a	a	a	a	a		
350	SEDIMENT BASIN (EXCEPT FOR ANIMAL WASTE)		DRAINAGE AREA	ACRES	20	40	160	320	640		
			EFFECTIVE HEIGHT (a)	FEET	10	15	20	25	35		
378	POND (EMBANKMENT)		STORAGE (b)	AC.FT.	5	15	30	50	85		
587	STRUCTURE FOR WATER CONTROL		CONDUIT (SINGLE)	INCH	12	18	24	36	48		
402	DAM, FLOODWATER RETARDING	BOX DROP TO	NET DROP	FEET	2*	3*	4*	4	6		
		CULVERT	WEIR CAPACITY	C.F.S.	100*	200*	300*	400	500		
		TOEWALLS	NET DROP	FEET	2*	3*	4*	3	4		
			WEIR CAPACITY	C.F.S.	100*	200*	300*	300			
362	DIVERSION		NET DROP	FEET	4	6	8	10	12		
			CAPACITY	C.F.S.	50	100	200	250	300		
			DRAINAGE AREA	ACRES	10	20	40	160	ALL		

STD. CODE	PRACTICE	SUB-PRACTICE	CONTROLLING FACTORS	UNITS	JOB CLASS					CERTIFICATION RATING	
					I	II	III	IV	V	DESIGN	CONST
393	FILTER STRIP	SEDIMENT RELATED	WIDTH	FEET	10	ALL					
		BARNYARD	CONTRIBUTING AREA	SQ. FT.	15000	40000	ALL				
		MILKING CENTER	VOLUME	G.P.D.	300	600	ALL				
		OTHER WASTES	FILTER AREA	SQ.FT.	1000	2500	5000	10000	ALL		
412	GRASSED WATERWAY		DRAINAGE AREA	ACRES	50	200	600	1300	ALL		
561	HEAVY USE AREA PROTECTION		AREA	SQ. FT.	15000	40000	ALL				
468	LINED WATERWAY OR OUTLET		DESIGN CAPACITY (c)	C.F.S.	10	30	100	150	ALL		
582	OPEN CHANNEL		DESIGN VELOCITY	F.P.S.	2	4	6	8	10		
584	STREAM CHANNEL STABILIZATION		DESIGN CAPACITY	C.F.S.	100	200	300	400	500		
516	PIPELINE, LIVESTOCK WATER		LENGTH	MILES	1/4	1	3	30	ALL		
378	POND (EXCAVATED)		VOLUME OF EXCAVATION	CU. YD.	20000	ALL					
521	POND SEALING OR LINING, WATER PONDS		AREA TREATED	ACRES	1/4	1/2	1	2	ALL		
558	ROOF RUNOFF MANAGEMENT		ROOF SIZE	SQ. FT.	1500	3000	4500	7000	ALL		
350	SEDIMENT BASIN, LIVESTOCK		WALL HEIGHT	FEET	2*	4*	5*	6*	8*		
			CONTRIBUTING AREA	SQ. FT.	15000	40000	ALL				
574	SPRING DEVELOPMENT		ESTIMATED FLOW	G.P.M.	ALL						
580	STREAMBANK AND SHORELINE PROTECTION	LAKESHORES	WATER HEIGHT	FEET					3		
		STREAMBANKS (d)	CAPACITY	C.F.S.	100	300	1000	2000	4000		
			VELOCITY	F.P.S.	2	4	6	8	10		
606	SUBSURFACE DRAIN		PIPE SIZE	INCH	4	6	8	12	ALL		
607	SURFACE DRAIN FIELD DITCH		DRAINAGE AREA	ACRES	10	20	50	100	ALL		
608	SURFACE DRAINAGE, MAIN OR LATERAL		DRAINAGE AREA	ACRES	100	320	640	2000	ALL		
600	TERRACE	GRADIENT	EMBANKMENT HEIGHT	FEET	2	3	ALL				
		UNDERGROUND OUTLET	EMBANKMENT HEIGHT	FEET	3	4	6	8	ALL		
614	TROUGH OR TANK		NUMBER	EACH	ALL						
620	UNDERGROUND OUTLET		PIPE SIZE	INCH	4	6	8	12	ALL		
638	WATER AND SEDIMENT CONTROL BASIN		EMBANKMENT HEIGHT	FEET	5	10	15				
312	WASTE MANAGEMENT SYSTEM		ANIMAL UNITS	EACH	75	150	300	600	1000		

**WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION
AGRICULTURAL ENGINEERING PRACTITIONER;
CERTIFICATION**

PRACTITIONER	OFFICE	Original	Revised	Revised
(SIGNATURE) _____	TITLE _____	DATE _____	DATE _____	DATE _____
CONCURRED BY _____	TITLE _____	DATE _____	DATE _____	DATE _____
CERTIFIED BY _____	TITLE DATCP Agricultural Engineer	DATE _____	DATE _____	DATE _____
CONCURRED BY _____	TITLE _____	DATE _____	DATE _____	DATE _____

STD. CODE	PRACTICE	SUB-PRACTICE	CONTROLLING FACTORS	UNITS	JOB CLASS					CERTIFICATION RATING	
					I	II	III	IV	V	DESIGN	CONST
560	ACCESS ROAD		GRADE	%	10	ALL					
		CULVERT	DRAINAGE AREA	ACRES	10	20	40	160	ALL		
		LIVESTOCK AND EQUIPMENT STREAM CROSSING	VELOCITY	F.P.S.	4	6	8	10	ALL		
410	GRADE STABILIZATION STRUCTURE	EARTHEN	HAZARD	CLASS	a	a	a	a	a		
350	SEDIMENT BASIN (EXCEPT FOR ANIMAL WASTE)	EMBANKMENTS	DRAINAGE AREA	ACRES	20	40	160	320	640		
			EFFECTIVE HEIGHT (a)	FEET	10	15	20	25	35		
378	POND (EMBANKMENT)		STORAGE (b)	AC.FT.	5	15	30	50	85		
587	STRUCTURE FOR WATER CONTROL		CONDUIT (SINGLE)	INCH	12	18	24	36	48		
402	DAM, FLOODWATER RETARDING	BOX DROP TO	NET DROP	FEET	2*	3*	4*	4	6		
		CULVERT	WEIR CAPACITY	C.F.S.	100*	200*	300*	400	500		
		TOEWALLS	NET DROP	FEET	2*	3*	4*	3	4		
			WEIR CAPACITY	C.F.S.	100*	200*	300*	300			
CHUTES	NET DROP	FEET	4	6	8	10	12				
			CAPACITY	C.F.S.	50	100	200	250	300		
362	DIVERSION		DRAINAGE AREA	ACRES	10	20	40	160	ALL		

STD. CODE	PRACTICE	SUB-PRACTICE	CONTROLLING FACTORS	UNITS	JOB CLASS					CERTIFICATION RATING	
					I	II	III	IV	V	DESIGN	CONST
393	FILTER STRIP	SEDIMENT RELATED	WIDTH	FEET	10	ALL					
		BARNYARD	CONTRIBUTING AREA	SQ. FT.	15000	40000	ALL				
		MILKING CENTER	VOLUME	G.P.D.	300	600	ALL				
		OTHER WASTES	FILTER AREA	SQ.FT.	1000	2500	5000	10000	ALL		
412	GRASSED WATERWAY		DRAINAGE AREA	ACRES	50	200	600	1300	ALL		
561	HEAVY USE AREA PROTECTION		AREA	SQ. FT.	15000	40000	ALL				
468	LINED WATERWAY OR OUTLET		DESIGN CAPACITY (c)	C.F.S.	10	30	100	150	ALL		
582	OPEN CHANNEL		DESIGN VELOCITY	F.P.S.	2	4	6	8	10		
584	STREAM CHANNEL STABILIZATION		DESIGN CAPACITY	C.F.S.	100	200	300	400	500		
516	PIPELINE, LIVESTOCK WATER		LENGTH	MILES	1/4	1	3	30	ALL		
378	POND (EXCAVATED)		VOLUME OF EXCAVATION	CU. YD.	20000	ALL					
521	POND SEALING OR LINING, WATER PONDS		AREA TREATED	ACRES	1/4	1/2	1	2	ALL		
558.	ROOF RUNOFF MANAGEMENT		ROOF SIZE	SQ. FT.	1500	3000	4500	7000	ALL		
350	SEDIMENT BASIN, LIVESTOCK		WALL HEIGHT	FEET	2*	4*	5*	6*	8*		
			CONTRIBUTING AREA	SQ. FT.	15000	40000	ALL				
574	SPRING DEVELOPMENT		ESTIMATED FLOW	G.P.M.	ALL						
580	STREAMBANK AND SHORELINE PROTECTION	LAKESHORES	WATER HEIGHT	FEET					3		
		STREAMBANKS (d)	CAPACITY	C.F.S.	100	300	1000	2000	4000		
			VELOCITY	F.P.S.	2	4	6	8	10		
606	SUBSURFACE DRAIN		PIPE SIZE	INCH	4	6	8	12	ALL		
607	SURFACE DRAIN FIELD DITCH		DRAINAGE AREA	ACRES	10	20	50	100	ALL		
608	SURFACE DRAINAGE, MAIN OR LATERAL		DRAINAGE AREA	ACRES	100	320	640	2000	ALL		
600	TERRACE	GRADIENT	EMBANKMENT HEIGHT	FEET	2	3	ALL				
		UNDERGROUND OUTLET	EMBANKMENT HEIGHT	FEET	3	4	6	8	ALL		
614	TROUGH OR TANK		NUMBER	EACH	ALL						
620	UNDERGROUND OUTLET		PIPE SIZE	INCH	4	6	8	12	ALL		
638	WATER AND SEDIMENT CONTROL BASIN		EMBANKMENT HEIGHT	FEET	5	10	15				
312	WASTE MANAGEMENT SYSTEM		ANIMAL UNITS	EACH	75	150	300	600	1000		

STD. CODE	PRACTICE	SUB-PRACTICE	CONTROLLING FACTORS	UNITS	JOB CLASS					CERTIFICATION RATING	
					I	II	III	IV	V	DESIGN	CONST
425	WASTE STORAGE POND (INCLUDES ABANDONMENT)		EFFECTIVE HEIGHT (a)	FEET	10	15	20	25	ALL		
		UNLINED	DESIGN CAPACITY	CU.FT.			100000	500000	1M		
		CONCRETE LINER	DESIGN CAPACITY	CU.FT.			100000	500000	1M		
		EARTH LINER	DESIGN CAPACITY	CU.FT.			100000	500000	1M		
		MEMBRANE LINER	DESIGN CAPACITY	CU.FT.			100000	500000	1M		
313	WASTE STORAGE STRUCTURE (e) (INCLUDES ABANDONMENT)		DESIGN CAPACITY	CU. FT.	5000	25000	75000	150000	250000		
			PREQUALIFIED	EACH	ALL						
			WALL HT.(STANDARD)	FEET			4*	6*	8*		
			WALL HT.(NONSTANDARD)	FEET			4	6	8		
358	WASTE TRANSFER		TYPE	EACH	PUMP	ALL					
			RECEPTION TANK (f)	EACH	STAND.	ALL					
					DESIGN						
642	WELL	ABANDONMENT	ESTIMATED DEPTH	FEET	100	200	300	500	ALL		
657	WETLAND DEVELOPMENT OR RESTORATION		SCRAPE	SURFACE AREA	ACRE	1/2	1	ALL			
			TILE BREAK	DRAIN DIAMETER	INCH	6	8	12	ALL		
			DITCH PLUG	DEPTH	FEET	4	6	8	ALL		
				DRAINAGE AREA	ACRES	80	160	320	640	ALL	
			EMBANKMENT	EFFECTIVE HEIGHT	FEET	4	6	8	10	ALL	
			DRAINAGE AREA	ACRES	20	40	80	120	160		
			STORAGE (b)	AC.FT.	5	15	30	50			

* - STANDARD DETAIL DRAWINGS

NOTES:

1. CERTIFICATION IS NOT GRANTED FOR PRACTICES NOT SHOWN.
2. OTHER RESTRICTIONS MAY APPLY AS NOTED.

FOOTNOTES:

- a. DIFFERENCE IN ELEVATION IN FEET BETWEEN THE EMERGENCY SPILLWAY CREST (TOP OF EMBANKMENT IF NO EMERGENCY SPILLWAY) AND THE LOWEST POINT IN THE CROSS SECTION TAKEN ALONG THE CENTERLINE OF THE EMBANKMENT.
- b. STORAGE - TOTAL STORAGE CAPACITY AT THE TOP OF THE DAM IN ACRE-FEET.
- c. LINED WATERWAY OR OUTLET (468) - THE JOB CLASS WILL BE BASED ON THE 10 YEAR 24 HOUR DURATION PEAK DISCHARGE.
- d. MAXIMUM DESIGN VELOCITY.
- e. PREQUALIFIED STRUCTURES CAN BE FOUND IN CHAPTER 17 OF THE ENGINEERING FIELD HANDBOOK. THE MWPS DRAWING No. 74303 AND THE MNTC DRAWING Nos. 5.E-33,001 AND 5.E-33,002 ARE CLASSIFIED UNDER WALL HEIGHT
- f. THE MWPS DRAWING No. 74303 AND THE MNTC DRAWING Nos. 5.E-33,001 AND 5.E-33,002 ARE CLASSIFIED UNDER CLASS II.