

**ACCP Reimbursement Eligibility Guidance for
S. ATCP 33, Wis. Adm. Code Required
Environmental Assessment and Other Assessments**

S. ATCP 33, Wis. Adm. Code Required Environmental Assessment

In accordance with ATCP 33.70 Wis. Admin. Code, Environmental Assessment are required as follows:

ATCP 33.70 Environmental assessments

- 1) ASSESSMENT REQUIRED. An operator shall conduct an assessment under sub. (2) whenever any of the following structures used for liquid bulk fertilizer or liquid bulk pesticide leaks, is removed, or remains out of use for more than 5 years:
 - (a) A mixing and loading pad.
 - (b) A sump.
 - (c) A secondary containment structure.
- (2) Nature and scope of assessment.
 - (a) An assessment under sub. (1) shall assess all of the following:
 1. Whether there have been any discharges to the environment.
 2. The extent and severity of any environmental contamination caused by the discharges under subd. 1.
 - (b) The assessment under sub. (1) shall include sampling and analysis of soils, groundwater and other media, as necessary.
- (3) Record and report. An operator shall file with the department a written report of each assessment under this section. The record and report shall indicate the nature, scope and findings of the assessment.

Many of the costs for an Environmental Assessment required under ATCP 33.70 may be covered by the Agricultural Chemical Cleanup Program (ACCP). However, compliance with ch. ATCP 35, Wis. Adm. Code will be required if eligible costs for reimbursement are incurred. The following guidance is intended to assist responsible persons, environmental consultants, and others involved in understanding when cost are eligible for reimbursement, and with complying with cleanup program requirements.

Sites with Less Than \$7,500 in Eligible Corrective Action Costs

No Contamination Discovered:

- No costs are eligible for reimbursement. Without documentation of a discharge, the site does not meet the definition of a Discharge Site (ATCP 35.01(15)) and the property owner is not considered a Responsible Person per ATCP 35.01(23). Only responsible persons (RPs) are eligible for reimbursement per ATCP 35.10, Wis. Adm. Code.

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Contamination Discovered:

No Workplan Approved:

- 100% of the reasonable and necessary costs for each contractor with costs less than or equal to \$3,000 are eligible for reimbursement per ATCP 35.16(8)(b), Wis. Adm. Code.
- Total costs must be less than a total of \$7,500 per sec. ATCP 35.18, Wis. Adm. Code; costs that exceed the \$7,500 total are ineligible for reimbursement without DATCP work plan approval.
- 75% of the reasonable and necessary costs for each contractor with costs greater than \$3,000 are eligible for reimbursement per s. ATCP 35.16 (8) (c), Wis. Adm. Code.

Costs Associated With an Approved Workplan and Cost Estimate:

- 100% of the reasonable and necessary costs are eligible for reimbursement. The workplan can be brief / simple.
- Reimbursement for 75% of the reasonable and necessary costs may be requested if work plan and/or cost estimate was ***not*** approved per s. ATCP 35.16(8)(c) Wis. Adm. Code.

Sites With Greater Than \$7,500 in Eligible Corrective Action Costs and With Land Use Controls (i.e. continuing obligations)

No Workplan Approved:

- No costs are eligible for reimbursement per s. ATCP 35.18, Wis. Adm. Code.

Costs Associated With an Approved Workplan and Cost Estimate:

- 100% of the reasonable and necessary costs are eligible for reimbursement. (Hydros should evaluate cost estimates and can authorize exemptions for bidding for contractors with costs that may exceed \$3,000, as appropriate.)
- The workplan can be brief / simple.
- Reimbursement for 75 % of the reasonable and necessary costs may be requested if work plan and/or cost estimate was not approved.

Sites With Greater Than \$7,500 in Eligible Corrective Action Costs and is Currently an Open Case in the ACCP

- Treat it the same as any other increase in scope – requires a cost estimate and a workplan. The workplan can be brief / simple.

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Site Assessments not required by s. ATCP 33, Wis. Adm. Code

Per ATCP 35.14(22) Wis. Adm. Code, costs for environmental audits, evaluations or appraisals, other than those needed for the effective planning and implementation of a corrective action are not eligible for reimbursement. If reasonable and necessary for subsequent corrective action, the following costs may be eligible for reimbursement:

- Sample and analytical costs;
- Mileage to the site for sampling;
- Maps of the sample site, including labor of the drafter, and
- Drilling costs, provided that not all of the samples are at the surface.

Costs ineligible for reimbursement include the following:

- Consultant time / RP labor;
- Report preparation costs;
- Costs determined to be either unreasonable or unnecessary, and
- Costs determined to be not useful for the subsequent corrective action.