

(d) Assess resource conditions and identify problem areas.

(e) Establish and document priorities and objectives.

(f) Project available funding and resources.

(g) Establish and document a plan of action.

(h) Identify roles and responsibilities.

(4) PUBLIC NOTICE AND HEARING. Before a county land conservation committee submits

a land and water resource management plan for department approval, the committee shall do all the following:

(a) Hold at least one public hearing on the plan.

(b) Make a reasonable effort to notify farmers affected by committee findings under subs. (2)(d) and (e), and give them an opportunity to present information related to the accuracy of the committee's findings.

NOTE: The county land conservation committee should consult with the department before holding public hearings on a land and water resource management plan.

(5) PLAN APPROVAL. The department shall approve or disapprove a county land and water resource management plan after consulting with the LWCB. The secretary shall sign the order approving or disapproving the county plan. The department shall approve a plan for a specified period of time that shall not exceed 5 years, subject to conditions that the department specifies in the order. The department's approval does not take effect if the county board does not approve the county plan.

NOTE: The county board may approve the county land and water resource management plan before or after the department approves the plan. The plan approved by the county board must be the same plan approved by the department. If the department requires changes to a plan previously approved by the county board,

1 the department's approval does not take effect until the county board approves the
2 modified plan.

3
4 (6) PLAN IMPLEMENTATION. The department may review county implementation of an
5 approved county land and water resource management plan. The department may consider
6 information obtained in its review when it makes annual grant allocations to counties under
7 subch. IV.

8 **ATCP 50.14 County ordinances.** A county may, by ordinance, require farmers to
9 implement conservation practices required under s. ATCP 50.04. A county shall comply with
10 applicable requirements under subch. VII.

11 **NOTE:** See county authority under ss. 59.69, 59.692, 92.11, 92.15 and 92.17, Stats.
12 This section does not expand a county's statutory authority. A county ordinance
13 implementing conservation practices under s. ATCP 50.04 should be consistent
14 with s. ATCP 50.04.

15 **ATCP 50.16 Farmland preservation program; conservation standards. (1)**

16
17 **STANDARDS REQUIRED.** (a) A county land conservation committee shall adopt soil and water
18 conservation standards, under s. 92.105, Stats., for all lands for which farmers claim farmland
19 preservation tax credits under subch. IX of ch. 71, Stats. By December 31, 2006, those standards
20 shall incorporate the farm conservation practices required under s. ATCP 50.04, or substantially
21 equivalent practices.

22 **NOTE:** See ss. 91.80 and 92.105, Stats. A farmer may claim farmland preservation tax
23 credits for land covered by a farmland preservation agreement or exclusive
24 agricultural zoning ordinance. (The LWCB must certify the ordinance.) To claim
25 the tax credits, the farmer must comply with county soil and water conservation
26 standards approved by the LWCB. Section ATCP 50.16 requires the county, by
27 December 31, 2006, to incorporate in its standards the farm conservation practices
28 under s. ATCP 50.04. The county standards should be consistent with s. ATCP
29 50.04.

1 (b) The LWCB may deny or withdraw certification, under s. 91.06, Stats., of an
2 exclusive agricultural zoning ordinance in a county that fails to comply with par. (a).

3 (c) The department may refuse to enter into farmland preservation agreements with
4 landowners in a county that fails to comply with par. (a). The department may also deny funding
5 under this chapter to any county that fails to comply with par. (a).

6 (2) PUBLIC HEARING. A county land conservation committee shall hold a public hearing
7 whenever the committee proposes to adopt or amend soil or water conservation standards under
8 sub. (1)(a).

9 **NOTE:** A county land conservation committee should consult with the department
10 before holding a public hearing on proposed soil or water conservation standards
11 or amendments.

12
13 (3) LWCB APPROVAL. (a) County soil and water conservation standards and amendments
14 under sub. (1) are not effective until approved by the LWCB.

15 (b) A county land conservation committee may submit a proposed standard or
16 amendment to the department, for approval by the LWCB. The department shall submit the
17 proposed standard or amendment to the LWCB and shall recommend approval, conditional
18 approval or disapproval. The department shall provide the LWCB with a proposed decision,
19 including proposed findings, proposed conclusions and a proposed order.

20 (c) The LWCB shall issue a written decision approving, conditionally approving or
21 disapproving a proposed standard or amendment under sub. (1). The LWCB may disapprove a
22 proposed standard or amendment for any of the following reasons:

23 1. The standard or amendment fails to comply with s. 92.105, Stats., or this chapter.

1 2. The standard or amendment does not reasonably conform to guidelines that the LWCB
2 has established under s. 92.105(2), Stats.

3 3. The standard or amendment is arbitrary or capricious.

4 4. The county land conservation committee has failed to provide the department or the
5 LWCB with requested information that is reasonably relevant to the LWCB's review of the
6 standard or amendment.

7 **NOTE:** Under s. 227.42, Stats., a county land conservation committee may request a
8 contested case hearing on an LWCB decision that is adverse to the committee. If
9 the LWCB grants the hearing request, it may ask the department to appoint an
10 impartial hearing examiner to conduct the hearing. The LWCB may affirm or
11 modify its decision based on the hearing record.

12 (4) FARM CONSERVATION PLANS. A county land conservation committee may enter into a
13 farm conservation plan with a farmer. A farmer is considered to be in compliance with the
14 conservation standards under sub. (1) if the farmer complies with a farm conservation plan that
15 will achieve full compliance with those standards within 3 years.

16 (5) MONITORING COMPLIANCE. (a) A county land conservation committee may inspect a
17 farmer's compliance with the conservation standards under sub. (1) and any farm conservation
18 plan under sub. (4). A county land conservation committee shall inspect each farmer's
19 compliance with the conservation standards under sub. (1) at least once every 6 years.

20 (b) A county land conservation committee may ask a farmer to certify, on an annual or
21 other periodic basis, that the farmer is complying with the conservation standards under sub. (1)
22 and any farm conservation plan under sub. (4). A farmer shall certify compliance on a form
23 provided by the committee.
24

1 (6) NOTICE OF NONCOMPLIANCE. (a) A county land conservation committee shall issue a
2 written notice of noncompliance to a farmer if the committee finds that the farmer has done any
3 of the following:

- 4 1. Failed to comply with applicable standards under sub. (1).
- 5 2. Failed to comply with a farm conservation plan under sub. (4).
- 6 3. Failed to permit a reasonable inspection under sub. (5)(a).
- 7 4. Failed to certify compliance in response to a committee request under sub. (5)(b).

8 (b) A county land conservation committee shall issue a notice of noncompliance under
9 par. (a) on a form provided by the department. The notice shall disclose all the following:

- 10 1. The nature of the violation, and a deadline date for curing the violation.
- 11 2. That the farmer may not claim farmland preservation tax credits under subch. IX of ch.
12 71, Stats., unless the farmer corrects the violation.
- 13 3. That the farmer may meet with the county land conservation committee to contest or
14 discuss the violation.

15 (c) If a farmer receiving a notice under par. (a) fails to cure the violation by the deadline
16 date specified in the notice, the county land conservation committee shall issue a copy of the
17 notice to all the following:

- 18 1. The state of Wisconsin department of revenue.
- 19 2. The county planning and zoning committee if the land is covered by an exclusive
20 agricultural zoning ordinance.

1 (d) A county land conservation committee may, at any time, withdraw a notice of
2 noncompliance under par. (a). The committee shall give notice of the withdrawal to any agency
3 under par. (c) that received a copy of the notice of noncompliance.

4 **ATCP 50.18 Annual reports.** (1) ACCOMPLISHMENT REPORT. By April 15 of each
5 year, a county land conservation committee shall file with the department a year-end
6 accomplishment report for the preceding calendar year. The committee shall file the report on a
7 form provided by the department. The report shall include all the following: *form*

8 (a) The county's activities and accomplishments related to soil and water resource
9 management during the preceding calendar year, including activities required or funded under
10 this chapter.

11 (b) The county's progress toward the objectives identified in the county land and water
12 resource management plan under s. ATCP 50.12. The report shall identify key areas of
13 improvement, key compliance activities and key remaining problem areas.

14 (2) ANNUAL FINANCIAL REPORT. By April 15 of each year, a county land conservation
15 committee shall file with the department a year-end financial report for the preceding calendar
16 year. The committee shall file the report on a form provided by the department. The county's *form*
17 chief financial officer shall sign the report. The report shall include all the following:

18 (a) The county's opening balance, if any, in each relevant funding category at the start of
19 the year.

20 (b) The amounts which the department distributed to the county, in each relevant funding
21 category, during the year.

1 (c) The amounts which the county spent, or for which the county incurred contract
2 obligations, in each relevant funding category during the year.

3 (d) The purposes for which the county spent or encumbered funds under par. (c).

4 **NOTE:** Grant funds awarded to a county under this chapter must be used for the
5 purposes awarded. Bond revenue funds must be used to finance capital
6 improvements on farms, not short-term practices. Bond revenue funds may not be
7 used to finance county operations. The grant contract between the department
8 and the county will identify the purposes for which grant funds may be
9 used.

10
11 (e) The county's closing balance in each relevant funding category at the end of the year.

12 **NOTE:** The department will distribute annual report forms as soon as possible prior to
13 January of each year, for return by April 15 of that year. o.k. >

14 **ATCP 50.20 Annual grant application.** By April 15 of each year, a county land
15 conservation committee shall file with the department its application for funding under this
16 chapter for the next calendar year. The application shall comply with s. ATCP 50.26

17 **NOTE:** The department awards grants to counties according to subch. IV.

18 **ATCP 50.22 Accounting and recordkeeping.** A county land conservation committee,
19 in consultation with the county's chief financial officer, shall establish and maintain an
20 accounting and recordkeeping system. The accounting and recordkeeping system shall do all the
21 following:

22 (1) Fully and clearly account for the receipt, handling and disposition of all funds that the
23 committee receives under this chapter.

24 (2) Document county compliance with this chapter and each grant contract under this
25 chapter.

1 (3) Include records required under s. ATCP 50.32(9) related to basic annual staffing
2 grants.

3 (4) Include records required under ^{s. NR} 50.34(8) related to cost-share grants for conservation
4 practices. X

5 **ATCP 50.24 Department review.** The department may review the activities of a county
6 land conservation committee under this chapter. The department may do any of the following in
7 connection with its review:

8 (1) Require the committee to provide relevant information requested by the department.

9 (2) Require the committee to discuss, with the department, county compliance with this
10 chapter.

11 (3) Inspect and copy relevant county records.

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

13

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

3 **NOTE:** See s. ATCP 50.32 related to basic annual staffing grants. See s. ATCP 50.38
4 related to staffing grants for counties engaged in DNR priority watershed projects.

5
6 (3) FUNDING FOR CONSERVATION PRACTICES. A county land conservation committee
7 may request funding for cost-share grants and technical assistance to install conservation
8 practices. The request shall include all the following:

9 (a) The purposes for which the county proposes to award cost-share grants to
10 landowners.

11 (b) The amount of funding requested for cost-share grants to landowners.

12 (c) The amount of funding requested for county technical assistance to landowners
13 installing cost-shared practices.

14 **NOTE:** See s. ATCP 50.34 related to funding for conservation practices.

15 (4) OTHER INFORMATION. A county land conservation committee may include, with its
16 grant application under sub. (1), any other information that the committee wishes to provide in
17 support of its grant application. The department may ask the committee to provide additional
18 information as necessary.

19 **NOTE:** Under s. 92.14(10), Stats., the department may award a grant to any person (not
20 just a county) for information, education, training and other services related to the
21 administration of this chapter. Under s. ATCP 50.38, the department may also
22 award staffing grants to local governmental units engaged in DNR priority
23 watershed projects. Grant applicants must apply by April 15 of each year for
24 funding in the next calendar year. See ss. ATCP 50.36 and 50.38.

25
26 **ATCP 50.28 Annual grant allocation plan.** (1) PLAN REQUIRED. The department
27 shall allocate grants under this chapter according to an annual grant allocation plan. The

OK

1 secretary shall sign the grant allocation plan. The plan shall specify, for the next calendar year,
2 all the following:

3 (a) The total amount appropriated to the department for possible allocation under the
4 plan, including the subtotal amount appropriated from each of the following sources:

- 5 1. General purpose revenues appropriated under s. 20.115(7)(c), Stats.
- 6 2. Segregated fund revenues appropriated under s. 20.115(7)(qd), Stats.
- 7
- 8 3. Bond revenues appropriated under s. 20.866(2)(we), Stats.
- 9
- 10 4. Other legislative appropriations.
- 11

12 (b) The total amount allocated under the plan, and the subtotal amount allocated from
13 each of the sources identified under par. (a).

14 (c) The amounts allocated to counties for basic annual staffing grants under s. ATCP
15 50.32. This shall include all the following:

16 1. The total amount allocated to counties under s. ATCP 50.32, and the subtotal amount
17 allocated from each relevant fund source under par. (a).

18 2. The total amount allocated to each county, and the subtotal amount allocated in each
19 designated grant category from each relevant fund source under par. (a).

20 3. An explanation for the allocations, including any material differences in allocations
21 between counties.

22 **NOTE:** The department may designate appropriate grant categories under par. (c)2. The
23 department must prepare an environmental assessment on its annual grant
24 allocation plan, and may explain grant allocations in the environmental
25 assessment. See s. ATCP 3.02(1)(h).
26

1 (d) The amounts allocated to counties under s. ATCP 50.34 to fund conservation
2 practices by landowners. This shall include all the following:

3 1. The total amount allocated to counties under s. ATCP 50.34, and the subtotal amount
4 allocated from each relevant fund source under par. (a).

5 2. The total amount allocated to each county, and the subtotal amount allocated in each
6 designated grant category from each relevant fund source under par. (a).

7 3. An explanation for the allocations, including any material differences in allocations
8 between counties.

9 **NOTE:** Funding under par. (d) may include funding for cost-share grants and for county
10 technical assistance to landowners receiving cost-share grants. The department
11 may specify appropriate grant categories under par. (d)2. The department may
12 explain its allocations in the environmental assessment that accompanies the
13 allocation plan. See s. ATCP 3.02(1)(h).

14
15 (f) The amount allocated to each non-county grant recipient, and an explanation for each
16 allocation.

17 **NOTE:** See ss. ATCP 50.36 and 50.38.

18 (2) PREPARING THE PLAN. (a) The department shall prepare an annual grant allocation
19 plan under sub. (1) for each calendar year. The department shall prepare the plan in consultation
20 with DNR after reviewing county grant applications under s. ATCP 50.20.

21 **NOTE:** The department and DNR will jointly review grant applications and will jointly
22 determine whether to fund projects under this chapter or s. 281.65 or 281.66,
23 Stats.

24
25 (b) The department shall do all the following before the department adopts an annual
26 grant allocation plan:

1 1. Provide a preliminary draft plan to DNR, the LWCB and every county land
2 conservation committee.

3 **NOTE:** The department will normally provide a preliminary draft plan to DNR, the
4 LWCB and the county land conservation committees by August 1 of the year
5 preceding the calendar year to which the plan applies.
6

7 2. Obtain LWCB recommendations on the annual grant allocation plan, as required under
8 s. 92.14(6)(b) and (d), Stats.

9 (d) The department shall adopt an annual grant allocation plan by December 31 of the
10 year preceding the calendar year to which the plan applies. The final draft plan may include
11 changes recommended by the LWCB, as well as updated estimates of project costs. The
12 department shall provide copies of the allocation plan to DNR, the LWCB and every county land
13 conservation committee. The department shall report to the LWCB any changes that the
14 department makes to the allocation plan recommended by the LWCB

15 (3) INELIGIBLE COUNTIES. The department may not award a county grant under this
16 chapter if any of the following applies:

17 (a) The county has failed to adopt a county land and water resource management plan
18 under s. ATCP 50.12(1), or lacks current department approval for that plan under s. ATCP
19 50.12(5). This paragraph first applies on August 1, 2001.

20 (b) The county failed to submit any annual report under s. ATCP 50.18 for the preceding
21 calendar year.

22 (c) The county failed to submit an annual grant application under s. ATCP 50.26.

23 **NOTE:** The department may reduce grant allocations to counties that fail to file timely
24 grant applications or annual reports, or fail to comply with other procedural
25 requirements under this chapter. See s. ATCP 50.30(3).
26

1 (4) GRANT PRIORITIES. When preparing an annual grant allocation plan under sub. (1),
2 the department shall consider the grant priorities under s. ATCP 50.30.

3 (5) REVISING AN ALLOCATION PLAN. (a) The department may revise an annual grant
4 allocation plan after it adopts that plan under sub. (1). The secretary shall sign every plan
5 revision. A revision may do any of the following:

6 1. Extend county funding, under s. ATCP 50.34(7), for landowner cost-share contracts
7 signed by November 1 of the preceding grant year but not completed in that year.

8 **NOTE:** The department will normally grant funding extensions by April 30 of each
9 year, based on county extension requests filed by January 15 of that year. See s.
10 ATCP 50.34(7).

11 2. Increase the total grant to any county. The department shall give all counties notice
12 and equal opportunity to compete for funding increases other than extensions under
13 subd. 1.

14 3. Reduce a grant award to any county with the agreement of that county.

15 4. Reallocate a county's annual grant between grant categories, to the extent authorized
16 by law and with the county's agreement.

17 **NOTE:** The department will not prepare an environmental assessment on a plan revision
18 unless the revision materially alters the original environmental assessment. The
19 department will not ordinarily prepare an environmental assessment on a plan
20 revision consisting solely of contract funding extensions under par. (a)1.

21 (b) The department shall do all the following before it revises an annual grant allocation
22 plan under par. (a):
23
24

1 1. Give written notice, and a copy of the proposed revision, to the LWCB, DNR and
2 every county land conservation committee. The notice shall clearly identify and explain the
3 proposed revision.

4 **NOTE:** For funding extensions under par. (a)1., the department's notice will indicate the
5 total number and dollar value of extensions requested and granted by county and
6 for the state as a whole. If the department plans to deny any extension requests,
7 the department will explain why. The department will keep a record showing the
8 amount of funding extended to each county for each uncompleted landowner
9 contract, but will not publish that record with its notice.

10
11 2. Obtain LWCB recommendations as required under s. 92.14(6)(b) and (d), Stats.

12 (6) DISTRIBUTING GRANT FUNDS. The department shall enter into a grant contract under
13 s. ATCP 50.36 with each grant recipient identified in the grant allocation plan. The contract
14 shall conform to the allocation plan signed by the secretary. The department shall pay out grant
15 funds according to this chapter and the grant contract.

16 **ATCP 50.30 Grant priorities.** When preparing an annual grant allocation plan under
17 sub. (1), the department shall consider all the following:

18 (1) COUNTY PRIORITIES. The department shall give high priority to maintaining county
19 staff and project continuity. The department shall consider county priorities identified in the
20 county grant application under s. ATCP 50.26 and in the county's approved land and water
21 resource management plan under s. ATCP 50.12.

22 (2) STATEWIDE PRIORITIES. The department may give priority to county projects that
23 address the following statewide priorities:

24 (a) Farms that discharge pollutants to waters that DNR has listed pursuant to 33 USC
25 1313(d)(1)(A).

1 **NOTE:** The list of waters under par. (a) is also known as the “303(d) list of impaired
2 waters.” *Appendix A* contains a map showing watersheds that drain to the listed
3 waters.

4
5 (b) Farm operations that apply nutrients at rates more than twice the rate specified under

6 s. ATCP 50.04(7) and (8).

7 (c) Farms for which the rate of cropland erosion is more than twice T-value.

8 (d) Farms discharging substantial pollution to waters of the state.

9 (e) Farms claiming farmland preservation tax credits subch. IX of ch. 71, Stats.

10 (3) OTHER FACTORS. The department may consider the following factors when
11 determining grant allocation priorities:

12 (a) The county’s demonstrated commitment to implement the approved land and water
13 resource management plan under s. ATCP 50.12, and the strength of the documentation
14 supporting that plan.

15 (b) A county’s demonstrated commitment to implement the farm conservation practices
16 required under s. ATCP 50.04.

17 (c) The likelihood that funded activities will address and resolve high priority problems
18 identified in approved county land and water resource management plans.

19 (d) The relative severity and priority of the soil erosion and water quality problems
20 addressed.

21 (e) The relative cost-effectiveness of funded activities in addressing and resolving high
22 priority problems.

23 (f) The extent to which funded activities are part of a systematic and comprehensive
24 approach to soil erosion and water quality problems.

1 (g) The timeliness of county grant applications and annual reports.

2 (h) The completeness of county grant applications and supporting data.

3 (i) A county's demonstrated cooperation and commitment, including its commitment of
4 staff and financial resources.

5 (j) A county's demonstrated ability to manage and implement funded projects.

6 (k) The degree to which funded projects contribute to a coordinated soil and water
7 resource management program and avoid duplication of effort.

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

10 (m) The degree to which county activities are consistent with the county's approved land
11 and water resource management plan.

12 (n) Other factors relevant to the administration of this chapter.

13 **ATCP 50.32 Basic annual staffing grants to counties.** (1) ELIGIBLE COUNTIES. The
14 department shall award a basic annual staffing grant to each eligible county that makes the
15 required county contribution under sub. (8). The department shall award the grant to the county
16 land conservation committee. A county may not reallocate grant funds to any other county
17 agency without the department's prior written approval.

18 **NOTE:** The department may award basic annual staffing grants from the
19 appropriations under s. 20.115(7)(c) or (qd), Stats. The department may not use
20 bond revenue funds for county staffing grants.

21
22 (2) GRANT CONTRACT. The department shall distribute a basic annual staffing grant
23 under sub. (1) according to an annual grant contract with the county. The contract shall comply
24 with s. ATCP 50.36 and shall include all the following:

1 (a) The total grant amount under sub. (1).

2 (b) The subtotal amount allocated for each designated purpose from each relevant fund
3 source under s. ATCP 50.28(1)(a).

4 (c) Grant terms and conditions, including conditions required under this section.

5 **NOTE:** Grant contracts, including grant amounts, grant categories and fund sources,
6 must conform to the grant allocation plan under s. ATCP 50.28. Bond revenues
7 may not be used for basic annual staffing grants.

8
9 (3) USE OF BASIC ANNUAL STAFFING GRANTS; GENERAL. A county land conservation
10 committee shall use a basic annual staffing grant under sub. (1) in the year for which the grant is
11 made, and for the purposes specified in the grant contract. A basic annual staffing grant may pay
12 for any of the following, subject to the grant contract:

13 (a) Salaries, fringe benefits, training, and staff support costs under sub. (4) for county
14 employees and agents engaged in soil and water resource management activities under this
15 chapter.

16 **NOTE:** A county may contract with consultants such as engineers, nutrient management
17 planners, computer specialists, and information and education specialists, to work
18 on behalf of the county in the implementation of soil and water conservation
19 programs. A county may use basic annual staffing grant funds to pay for the
20 services of these "agents" who work on behalf of the county.

21
22 In addition to providing a basic annual staffing grant, the department may
23 reimburse a county under s. ATCP 50.34(5) for technical assistance and other
24 services that county staff and agents provide to landowners in connection with
25 specific cost-share grants. Payments under s. ATCP 50.34(5) are limited to 15%
26 of the total eligible project cost.

27 (b) Training for county land conservation committee members.

28 (4) STAFF SUPPORT COSTS. A basic annual staffing grant may pay for any of the
29 following staff support costs identified in the grant application:

1 (a) Travel expenses, including mileage charges, vehicle leases, meals, lodging and other
2 necessary costs.

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

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

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

7 (e) Field equipment.

8 (f) A proportionate share of the costs for required financial and compliance audits.

9 (g) Costs for information and education supplies and services that county employees or
10 agents use or distribute in connection with their activities under this chapter.

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

12 (5) GRANT AMOUNTS. (a) The department may award different grant amounts to
13 different counties under sub. (1), based on the department's assessment of funding needs and
14 priorities.

15 (b) Subject to staffing costs and the availability of funds, the department shall attempt to
16 provide salary and fringe benefit funding under sub. (1) for an average of 3 staff persons per
17 eligible county, with full funding for the first staff person, 70% funding for the second staff
18 person and 50% funding for any additional staff person.

19 **NOTE:** See s. 92.14(6)(b), Stats.

20 (c) Subject to the availability of funds, the department shall award at least the following
21 amounts to the following eligible counties:

1 1. \$12,000 to a county that has a county conservationist operating according to an
2 agreement between the department and the county land conservation committee.

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

10 2. \$7,000 to a county that does not have a county conservationist operating under an
11 agreement between the department and the county land conservation committee.

12 (6) GRANT PAYMENT. (a) Except as provided in par. (b), the department shall pay the
13 full amount of a basic annual staffing grant by April 15 of the grant year, or within 30 days after
14 both the department and the county land conservation committee sign the grant contract,
15 whichever is later.

16 (b) The department may pay a portion of the basic annual staffing grant after the
17 payment date specified under par. (a) if funding for that portion of the grant is appropriated for
18 distribution during the grant year, but not yet available for distribution on the date specified in
19 par. (a). The department shall pay that remaining portion of the grant when the funding becomes
20 available for distribution.

21 **NOTE:** All grant funds, including those paid under par. (b), must be allocated pursuant
22 to an annual grant allocation plan under s. ATCP 50.28.

23
24 (7) UNSPENT FUNDS. In its annual financial report under s. ATCP 50.18(2), a county land
25 conservation committee shall report to the department any grant funds under sub. (1) that remain
26 unspent at the end of the calendar year for which the department made the grant. The department
27 shall deduct the unspent amount from the next year's basic annual staffing grant to the county.

1 (8) COUNTY CONTRIBUTION. (a) In order to receive a basic annual staffing grant, a
2 county shall do all the following:

3 1. If the basic annual staffing grant provides salary and fringe benefit funding for more
4 than one county staff person, the county shall provide funding equal to at least 30% of the salary
5 and fringe benefit cost for the second staff person and 50% of the salary and fringe benefit cost
6 for each additional staff person funded by the grant.

7 **NOTE:** See s. 92.14(3), Stats.

8 2. Maintain its annual soil and water resource management expenditures at or above the
9 average annual amount that the county expended in the years 1985 and 1986.

10 **NOTE:** See s. 92.14(7), Stats.

11 (b) A county may count, as part of its contributions under par. (a), expenditures for any
12 county staff engaged in natural resource protection, regardless of whether those staff work for the
13 county land conservation committee. A county may not count capital improvement

14 expenditures, or the expenditure of grant revenues that the county receives from any outside
15 source.

16 (c) Paragraph (a) does not apply to staffing grants under s. ATCP 50.38 related to the
17 DNR priority watershed program.

18 (9) RECORDS. A county land conservation committee shall keep records related to basic
19 annual staffing grants under this section. The records shall document that the county used grant
20 funds according to this chapter and the grant contract. The county shall retain the records for at
21 least 3 years.

1 (10) BOND REVENUES MAY NOT BE USED FOR COUNTY STAFFING. Bond revenues funds

2 may not be used for a basic annual staffing grant under sub. (1).

3 **NOTE:** Bond revenues are those appropriated under s. 20.866(2)(we), Stats. The
4 Wisconsin constitution limits the use of bond revenues.

5 **ATCP 50.34 Grants for conservation practices.** (1) GENERAL. The department may
6 award an annual grant to each eligible county to finance county cost-share grants to landowners.
7

8 The department shall award the grant to the county land conservation committee. The committee
9 may make cost-share grants to landowners for conservation practices needed to comply with any
10 of the following:

11 (a) Section ATCP 50.04.

12 (b) State or local regulations. The committee may not use funds under this chapter to
13 award cost-share grants for practices needed to comply with a DNR notice of intent or notice of
14 discharge under s. 281.20 or ch. 283, Stats., if those practices are installed after the effective date
15 of this chapter [revisor inserts effective date of this chapter]. With the department's written

16 approval, a county land conservation committee may forward grant funds to a city, village, town
17 or local governmental unit that uses the funds to make cost-share grants to landowners who
18 install conservation practices required by that city, village, town or local governmental unit.

19 **NOTE:** DNR may provide cost-share funding for practices needed to comply with a
20 DNR notice of intent under s. 281.20 or notice of discharge under s. 283, Stats.

21
22 (c) Objectives identified in the county land and water resource management plan under s.
23 ATCP 50.12.

24 **NOTE:** The department may award grants under sub. (1) from the appropriations under
25 ss. 20.115(7)(c) and (qd), Stats., or from the bond revenue appropriation under s.

1 20.866(2)(we), Stats. Bond revenue grants may only be used for the purposes
2 identified in sub. (4).

3 (2) GRANT CONTRACT. The department shall make grant payments under sub. (1)
4 according to an annual grant contract with the county. The contract shall comply with s. ATCP
5 50.36, and shall include all the following:

6 (a) The total amount awarded under sub. (1).

7 (b) The subtotal amount awarded in each designated grant category from each relevant
8 fund source under s. ATCP 50.28(1)(a).

9 **NOTE:** Grant contracts, including grant amounts, grant categories and fund sources,
10 must conform to the grant allocation plan under s. ATCP 50.28. Bond revenues
11 may only be used for certain purposes identified in the contract. See sub. (4).
12

13 (c) Grant terms and conditions, including terms and conditions required under this
14 section.

15 (3) GRANT PAYMENTS. The department shall make grant payments under sub. (1) on a
16 reimbursement basis. The department shall reimburse the county after the county certifies that
17 the landowner has properly installed and paid for the cost-shared practice. To obtain
18 reimbursement for a cost-shared practice, a county land conservation committee shall do all the
19 following:

20 (a) File with the department a copy of the county's cost-share contract with the
21 landowner. The cost-share contract shall comply with s. ATCP 50.40(7) and (8).

22 **NOTE:** The department must be a party to any cost-share contract that exceeds \$25,000.
23

24 (b) Certify the amount of reimbursement due.

1 (c) Certify, based on documentation possessed by the county, that all applicable
2 conditions in s. ATCP 50.40(9) to (11) are met.

3 **NOTE:** The department will provide forms that counties may use to certify the ^{forms}
4 information under sub. (3). A county land conservation committee need not
5 submit documentation supporting its certification under par. (c), but must keep
6 that documentation on file as required by sub. (8). The committee must make the
7 documentation available to the department and grant auditors upon request.
8

9 (4) USE OF BOND REVENUES. (a) Bond revenue funds awarded under sub. (1) may be
10 used for the following purposes, subject to the grant contract:

11 1. To finance cost-shared practices identified in subch. VIII, except that bond revenue
12 funds may not be used to finance practices identified in s. ATCP 50.68, 50.69, 50.71, 50.77,
13 50.81 or 50.88.

14 2. To finance engineering services provided, by someone other than a county land
15 conservation committee or its agent, in connection with a cost-shared practice for which bond
16 revenues may be used under subd. 1.

17 **NOTE:** See s. ATCP 50.40(6).

18 (b) The department may not use bond revenue funds to reimburse a county for staff or
19 services provided by the county or its agents.

20 **NOTE:** Bond revenue funds are those appropriated under s. 20.866(2)(we), Stats. The
21 Wisconsin constitution limits the use of bond revenue funds. Bond revenue funds
22 must be used to finance capital improvements, not short-term practices.
23 Bond revenue funds may not be used to finance county operations. The grant
24 contract between the department and the county will identify the purposes for
25 which grant funds may be used.
26

1 (5) TECHNICAL ASSISTANCE. (a) As part of a grant under sub. (1), the department may
2 reimburse a county land conservation committee for any of the following services provided by
3 the committee or its agents:

- 4 1. Technical assistance to a landowner receiving a cost-share grant.
- 5 2. Certification that a cost-shared project is designed and installed according to this
6 chapter.
- 7 3. Administration or supervision of a cost-shared project.
- 8 4. Other services approved by the department.

9 (b) The department shall determine the amount, if any, that it will reimburse a county
10 land conservation committee under par. (a). Except as provided in par. (a)4., reimbursement for
11 technical services provided in connection with a cost-shared project may not exceed 15% of the
12 project costs that are eligible for cost-sharing. The department may not reimburse a county under
13 par. (a) for services that are reimbursed under s. ATCP 50.32 or ch. NR 120.

14 (6) UNSPENT FUNDS. The department may not use grant funds awarded to a county under
15 sub. (1) to reimburse the county for costs that the county incurs after December 31 of the
16 calendar year for which the department awarded the grant. Unspent funds remain with the
17 department, for distribution under a future year's allocation plan.

18 (7) EXTENSIONS. (a) If a grant under sub. (1) funds a landowner cost-share contract that
19 is signed by November 1 of the grant year but not completed by December 31 of that year, the
20 department may provide extended funding for that contract in the next year's grant allocation to
21 the county. An extension may also include extended funding for county technical assistance
22 provided in connection with the cost-shared project.

1 (b) The department may grant an extension if all the following apply:

2 1. The county properly contracts with the landowner by November 1 of the initial grant
3 year.

4 2. The landowner complies with the cost-share contract.

5 3. The county land conservation committee files with the department, by January 15 of
6 the year following the initial grant year, a written request and justification for the funding
7 extension.

8 4. The department has not previously extended funding for the same contract from one
9 grant year to another.

10 **NOTE:** The department will normally approve extensions by April 30 of each year. See
11 s. ATCP 50.28(5).

12 (c) A county may not transfer a funding extension from one cost-share contract to
13 another. Extended funding, if not spent in the year of the extension, remains with the department
14 for distribution under a future year's allocation plan.
15

16 (8) COUNTY RECORDS. (a) A county land conservation committee shall keep all the
17 following records related to grants under sub. (1):

18 1. Copies of all county cost-share contracts with landowners, including any provisions
19 related to operation and maintenance of installed practices.

20 2. Documentary proof of all information that the county land conservation committee
21 certifies to the department under this section.

22 3. Documentation of all county receipts and payments under this section.

1 4. Other records needed to document county compliance with this section and the grant
2 contract.

3 (b) A county land conservation committee shall retain cost-share records under par. (a)
4 for at least 3 years after the committee makes its last cost-share payment to the landowner, or for
5 the duration of the maintenance period required for the cost-shared practice under subch. VIII,
6 whichever is longer. The committee shall make the records available to the department and grant
7 auditors upon request.

8 **ATCP 50.36 Grant contracts.** (1) COUNTY GRANT CONTRACTS. The department shall
9 enter into an annual grant contract with a county land conservation committee for the payment of
10 grant funds awarded to the county. The contract shall include relevant terms required under this
11 section and ss. ATCP 50.32 and 50.34.

12 (2) OTHER GRANT CONTRACTS. (a) The department shall enter into a grant contract with
13 every non-county grant recipient under this chapter. A grant applicant shall file a written grant
14 application by April 15 of the year preceding the year for which the department awards the grant.

15 The grant application shall include a proposed budget and supporting documentation. The
16 department may require a grant applicant to apply on a form provided by the department.

17 **NOTE:** Under s. 92.14(10), Stats., the department may award a grant to any person (not
18 just a county) for information, education, training and other services related to the
19 administration of this chapter. Under s. ATCP 50.38, the department may also
20 award staffing grants to local governmental units engaged in DNR priority
21 watershed projects.

22
23 (d) A grant contract under par. (a) shall conform to the grant allocation plan under s.
24 ATCP 50.28. The contract shall specify grant terms and conditions, including terms required

1 under this chapter. The department may not pay out any grant funds after December 31 of the
2 year for which the grant is awarded.

3 (3) BREACH OF CONTRACT. The department may withhold grant payments to a grant
4 recipient, or may require a grant recipient to return grant payments, if the department finds that
5 the grant recipient has violated this chapter or breached its grant contract with the department.

6 **NOTE:** The department may seek other administrative or judicial sanctions, as
7 appropriate. A grant recipient may appeal an administrative sanction under this
8 section, to the extent provided under ch. 227, Stats.

9 (4) CONTRACT CONTINGENT ON LEGISLATIVE APPROPRIATIONS. Grant payments to a
10 county land conservation committee or other grant recipient under this chapter are contingent on
11 the continued availability of legislative appropriations to fund those payments.

12 **ATCP 50.38 Priority watershed program; staffing grants.** (1) DEFINITIONS. In this
13 section:

14 (a) "Critical site" has the meaning given in s. NR 120.02(8).

15 (b) "Governmental unit" has the meaning given in s. NR 120.02(15).

16 (c) "Priority watershed plan" has the meaning given in s. NR 120.02(30).

17 (2) ANNUAL STAFFING GRANT. The department, in consultation with DNR, may award an
18 annual staffing grant to a governmental unit engaged in a priority watershed project under ch. NR
19 120. The grant shall be included in the department's annual grant allocation under s. ATCP
20 50.28. If the governmental unit is a county, the department shall include the staffing grant in the
21 department's basic annual staffing grant to the county under s. ATCP 50.32.

22 **NOTE:** The Wisconsin legislature restructured the state's nonpoint source pollution
23 abatement program in 1997 and 1999. As part of this restructuring, DNR is
24 phasing out its priority watershed program under ch. NR 120.
25

1 DNR will continue to provide cost-share funding for priority watershed projects
2 established prior to July 1, 1998. But DNR will establish no new priority
3 watershed projects, and has established no new projects since July 1, 1998. DNR
4 will no longer provide funding for county and local government staff engaged in
5 the priority watershed program.

6
7 The department of agriculture, trade and consumer protection provides grants to
8 pay for county soil and water conservation staff. Under the redesigned nonpoint
9 source pollution abatement program, the department will also fund county and
10 local staff who are still engaged in DNR's priority watershed program. Funding
11 for county staff will be added to, and included in, the department's basic annual
12 staffing grants to counties. The department will provide separate grants to other
13 governmental units engaged in priority watershed projects.

14
15 Staffing grants include support costs. A county is not required to provide
16 matching funds for priority watershed staffing grants, as it is for other staffing
17 grants under s. ATCP 50.32. Within the limits of available funds, the department
18 will attempt to ensure continuity of staffing and support for continuing priority
19 watershed projects. Staffing grants for priority watershed projects will be phased
20 out as remaining projects are completed.

21
22 (3) GRANT APPLICATION. By April 15 of each year, a governmental unit shall apply for
23 funding under sub. (2) for the next calendar year. The governmental unit shall apply on a form
24 provided by the department. The application shall include all the following:

- 25 (a) The activities under sub. (5) for which the governmental unit seeks funding.
- 26 (b) The total county staff time required for the activities identified under par. (a), and the
27 amount of staff time allocated for each activity.
- 28 (c) The amount of funding requested for staff salaries, fringe benefits, professional
29 service contracts, training and support to carry out the activities under par. (a). The application
30 shall include a reasonable breakdown of projected costs, according to cost categories identified in
31 sub. (5).
- 32 (d) Other information required by the department.

terms

1 (4) GRANT CONTRACT. The department shall distribute a staffing grant under sub. (2)
2 according to an annual grant contract with the governmental unit. The grant contract shall
3 comply with s. ATCP 50.36.

4 (5) USE OF STAFFING GRANTS; GENERAL. A governmental unit shall use a staffing grant
5 under sub. (2) in the year for which the grant is made, and for the purposes identified in the grant
6 contract. A grant may pay for any of the following:

7 (a) Salaries and fringe benefits for staff time to implement priority watershed projects
8 under ch. NR 120. Funded activities may include:

- 9 1. Contacting owners of critical sites identified in the priority watershed plan.
- 10 2. Identifying conservation practices needed at critical sites.
- 11 3. Awarding cost-share grants and entering into cost-share contracts with landowners.
- 12 4. Designing, installing, certifying, and monitoring the operation and maintenance of
13 conservation practices.
- 14 5. Information and education activities approved by DNR.
- 15 6. Project and fiscal management.
- 16 7. Preparing inventories or other required components of a priority watershed plan.
- 17 8. Ordinance administration, to the extent that the priority watershed plan authorizes
18 funding for that purpose.
- 19 9. Administering easements under NR 120.185.
- 20 10. Designing stormwater plans for urban development.
- 21 11. Conducting engineering feasibility studies for urban conservation practices needed to
22 achieve water quality goals stated in the priority watershed plan.

1 12. Evaluating and implementing local financing arrangements for storm water
2 management.

3 (b) Costs to contract for professional services under par. (a) that cannot be provided by
4 staff of the governmental unit.

5 (c) Any of the following staff support costs, identified in the grant application, that are
6 reasonably and proportionately allocated to activities under par. (a):

7 1. Staff training.

8 2. Travel expenses, including vehicle costs, meals, lodging and other necessary costs.

9 3. Office space.

10 4. Office equipment and furnishings, including desks, chairs, calculators, drafting
11 equipment, telephones, copy machines and file cabinets.

12 5. Personal computers, software, printers and related devices.

13 6. Offices supplies including paper, copies, printing and postage.

14 7. Field equipment.

15 8. Other staff support costs approved by the department.

16 (d) Any of the following costs, identified in the grant application, that pertain to the
17 implementation of the priority watershed project:

18 1. Appraisal costs to acquire property under NR 120.186.

19 2. A proportionate share of grant program single audit costs.

20 3. Costs to test materials used in conservation practices.

21 4. Costs to record cost-share agreements with the county register of deeds.

1 5. Travel expenses for the citizen advisory committee established under s. NR120.04,
2 including necessary mileage charges and meals. Travel expenses may not exceed the allowable
3 state per diem rate, and the total for all committee members may not exceed \$1,000 per year.

4 6. Other costs approved by the department.

5 (6) GRANT PAYMENT. The department shall pay the full amount of the staffing grant
6 under sub. (2) by April 15 of the grant year, or within 30 days after both the department and the
7 grant recipient sign the grant contract, whichever is later.

8 (7) UNSPENT FUNDS. By April 15 of the year following the grant year under sub. (2), the
9 grant recipient shall report to the department any grant funds that remained unspent at the end of
10 the grant year. A county receiving a grant under sub. (2) shall include the report in its annual
11 financial report under s. ATCP 50.18(2). The department shall deduct the unspent amount from
12 the next year's grant under sub. (2).

1 1. The cost-shared practice is needed to comply with a city or village ordinance under
2 subch. VII.

3 2. The department approves the cost-share grant in writing.

4
5 **NOTE:** The department and DNR will jointly review county applications for cost-share
6 funding and will jointly determine whether to fund projects under this chapter or
7 s. 281.65 or 281.66, Stats. Funding under this chapter is primarily aimed at rural
8 conservation practices. DNR may provide funding for urban conservation
9 practices that are not financed under this chapter.

10 (3) **COST-SHARED PRACTICES.** A cost-share grant may finance conservation practices
11 identified under subch. VIII, or other conservation practices that the department approves in
12 writing. A cost-share grant may not be used to do any of the following, except as specifically
13 authorized under subch. VIII:
14

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15 (a) Pay for a conservation practice that the landowner installed before entering into the
16 cost-share contract.

17 (b) Install or modify an agricultural facility or practice for which a Wisconsin pollution
18 discharge elimination system (WPDES) permit is required under s. 283.31, Stats.

19 (c) Install, after the effective date of this chapter [**revisor inserts effective date of this**
20 **chapter**], a practice needed to comply with a DNR notice of intent under s. 281.20 or notice of
21 discharge under s. 283, Stats.

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22 **NOTE:** DNR may provide cost-share funding for practices needed to comply with a
23 DNR notice of intent under s. 281.20 or notice of discharge under s. 283, Stats.

24 (d) Correct overtopping of a manure storage facility.

25 (e) Move a manure stack.

26 (f) Drain wetlands, as defined in s. 23.32, Stats.

- 1 (g) Increase drainage of land.
- 2 (h) Maintain existing grass cover.
- 3 (i) Implement practices routinely used to grow crops or feed livestock.
- 4 (j) Dredge a harbor, lake, river or drainage ditch.
- 5 (k) Prevent or clean up spills of pesticides, fertilizers or other agricultural chemicals
- 6 from commercial bulk storage facilities.
- 7 (L) Plant, grow or harvest trees.
- 8 (m) Install, operate or repair a septic system. *use 83*
- 9 (n) Install or modify a flood control structure.
- 10 (o) Install a riparian buffer strip that results in a buffer strip less than 20 feet wide.
- 11 (p) Destroy significant wildlife habitat, unless the landowner agrees to restore the habitat
- 12 at the landowner's expense.

13 (4) COST-EFFECTIVE PRACTICES. A county land conservation committee shall consider
14 whether a cost-shared practice will be cost-effective. The committee shall consider all the
15 following:

- 16 (a) The predicted conservation benefits of the practice.
- 17 (b) The minimum practice needed to achieve the conservation objective.
- 18 (c) The cost of the practice compared to feasible and effective alternatives.
- 19 (d) The practical effects of the practice on the agricultural operation.

20 (5) COST-SHARE RATES AND AMOUNTS. Cost-share rates and amounts may not exceed the
21 maximum rates and amounts specified in s. ATCP 50.42, except that a cost-share grant may
22 include an additional amount for engineering services under sub. (6).

1 (6) ENGINEERING SERVICES. (a) A cost-share grant may include funding for engineering
2 services needed to design and certify a cost-shared practice. A cost-share grant may reimburse
3 the cost of engineering services provided by a professional engineer registered under ch. 443,
4 Stats., or an agricultural engineering practitioner certified at the applicable rating under s. ATCP
5 50.46. A cost-share grant may not reimburse the cost of engineering services provided by the
6 county land conservation committee or its agent.

7 (b) Funding for engineering services under par. (a) may not exceed the lesser of the
8 following:

- 9 1. 70% of the actual cost of the engineering services.
- 10 2. 15% of the total eligible cost of the cost-shared practice, exclusive of engineering
11 costs, determined according to sub. (15).

12 (7) COST-SHARE CONTRACT. A county land conservation committee shall enter into a
13 written contract with every landowner to whom the committee awards a cost-share grant. If the
14 total amount of the cost-share contract may exceed \$25,000, the contract shall be a 3-party
15 contract signed by the landowner, the county land conservation committee and the department.

16 (8) CONTRACT TERMS. A cost-share contract under sub. (7) shall include all the
17 following:

- 18 (a) The landowner's name and address.
- 19 (b) The purpose for the cost-share grant.
- 20 (c) The location of the land on which the cost-shared practice is to be installed, and a
21 specific legal description of the land if cost-share payments may exceed \$25,000.

1 (d) Specifications for the cost-shared practice, including engineering specifications for
2 any agricultural engineering practice identified under s. ATCP 50.46(2).

3 (e) The total estimated cost of the cost-shared practice, determined according to sub.
4 (15).

5 (f) The cost-share rate and the maximum total amount of the cost-share grant, which
6 shall not exceed the rate and amount allowed under s. ATCP 50.42.

7 (g) The amount, if any, that the county land conservation committee will pay for
8 engineering services under sub. (6).

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

10 (i) Applicable conditions required under this section.

11 (j) An agreement that the landowner will operate and maintain the cost-shared practice
12 for at least the period of time required under subch. VIII, or replace it with an equally effective
13 practice. The landowner shall refrain, during the maintenance period, from any action that may
14 reduce the effectiveness of the cost-shared practice.

15 (k) An agreement that the landowner will repay the full amount of the cost-share grant
16 immediately, upon demand by the county land conservation committee, if the landowner fails to
17 operate and maintain the cost-shared practice according to the contract.

18 (L) If the contract provides for a cost-share grant of more than \$25,000, an agreement
19 that the contract runs with the land and is binding on subsequent owners or users of the land for
20 the period of time required under subch. VIII.

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1 (m) Provisions authorizing the county land conservation committee to stop work or
2 withhold cost-share grant payments if the committee finds that the landowner has breached the
3 contract.

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

7 (o) Other terms or conditions specified by the county land conservation committee.

8 **NOTE:** The department will provide sample cost-share contracts to each county land
9 conservation committee. County land conservation committees are encouraged to
10 use the contract forms provided by the department.
11

12 (9) DESIGN AND INSTALLATION. A cost-shared practice shall be all the following:

13 (a) Designed and installed according to subch. VIII and the cost-share contract.

14 (b) Installed in compliance with applicable construction site erosion control standards
15 contained in the DNR Wisconsin construction site best management practice handbook, DNR
16 Pub. WR-222 (April 1994).

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

20 (10) PAYMENT CONDITIONS MET. Before a county land conservation committee pays for
21 any cost-shared practice, or requests any cost-share reimbursement from the department under s.
22 ATCP 50.34(3), the committee shall document all the following:

23 (a) That the landowner has made, for that cost-shared practice, all payments for which
24 the landowner is responsible under the cost-share contract.

1 (b) That the cost-shared practice is designed and installed according to sub. (9). If the
2 cost-shared practice is an agricultural engineering practice identified under s. ATCP 50.46(2),
3 one of the following shall certify in writing that the practice complies with sub. (9):

- 4 1. A professional engineer registered under ch. 443, Stats.
- 5 2. An agricultural engineering practitioner certified under s. ATCP 50.46.

6 (c) If the cost-shared practice includes a nutrient management plan, that the plan
7 complies with s. 50.04(8).

8 (11) PARTIAL PAYMENTS. A county land conservation committee may make partial
9 payments for completed portions of a cost-shared practice if all the following apply:

10 (a) The committee documents, for that completed portion, the information required under
11 sub. (10).

12 (b) The completed portion provides independent conservation benefits.

13 (c) The committee distributes no more than 90 percent of the total cost-share grant in
14 partial payments.

15 (12) PAYMENT RECIPIENTS. A county land conservation committee shall make cost-share
16 payments to the contracting landowner, except that the committee may do any of the following:

17 (a) Make cost-share payments by multi-party check payable to the landowner and any
18 contractors who designed or installed a cost-shared practice for the landowner.

19 (b) Make a cost-share payment to an assignee whom the landowner designates in writing.

20 (13) CONTRACTS OVER \$25,000. If a county cost-share contract with a landowner
21 exceeds \$25,000, the department shall also sign the contract and shall record the contract with

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1 the county register of deeds before the county makes any cost-share payment to the landowner.

2 The contract is not valid until signed by the department.

3 (14) LANDOWNER INSTALLATION. A landowner may personally install a cost-shared
4 practice if the county land conservation committee finds all the following:

5 (a) The landowner is competent to install the practice.

6 (b) The landowner can install the practice at least as cheaply as other available
7 contractors.

8 (c) The landowner submits a qualified bid if the committee requires bidding under sub.

9 (15)(b).

10 (15) COST CONTAINMENT. A county land conservation committee shall adopt one or
11 more of the following cost containment procedures, or other procedures that are equally
12 effective, when estimating and paying for a cost-shared practice:

13 (a) The committee may base cost-share grants on typical or maximum acceptable costs
14 for the conservation practice, even if actual costs are higher.

15 **NOTE:** A committee may estimate typical costs per completed practice, or per unit of
16 labor or materials. A committee may use its own experience, or information
17 obtained from the department or other sources, to estimate typical costs.

18
19 (b) The committee may require competitive bidding, and may determine a cost-share
20 grant amount based on low bid cost, regardless of whether the contracting landowner selects the
21 low bidder. The committee may specify bidding procedures that it considers appropriate. The
22 committee shall require competitive bidding if the cost-share contract may exceed \$25,000.

23 **NOTE:** The department suggests the following bidding procedures:

- 24 • The committee must show the proposed construction site to all prospective
25 bidders on the same day and at the same time.

- 1 • There must be at least 3 qualified bids.
- 2 • All bids must be sealed and delivered by a bid deadline to a location specified
- 3 by the committee.
- 4 • Bids must be opened within 2 weeks after the bid deadline.
- 5 • The amount of the cost-share grant is based on the lowest qualified bid.
- 6 • The landowner may select a higher bidding contractor only if the landowner
- 7 agrees to pay the difference.
- 8 • The landowner may not select a contractor who did not bid.

9
10 (c) The committee may use its own employees or agents, to design, construct or install a
11 cost-shared practice if, by doing so, it can minimize public costs related to the practice. If a
12 county reallocates grant funds to a city, village, town or local governmental unit with the
13 department's approval, that governmental unit may use its employees or agents in the same
14 manner.

15 **NOTE:** A county, city, village, town or local governmental unit may contract with the
16 Wisconsin conservation corps, or with another governmental entity, to install a
17 cost-shared practice as the agent of the county, city, village, town or local
18 governmental unit.

19
20 (16) COMBINED GRANTS. Cost-share grants under this chapter may be combined with
21 grants from other federal, state, local and private sources. State-funded grants may not finance
22 more than 85% of the total cost of a project. A cost-share grant under this chapter may not
23 reimburse a landowner for any costs that another governmental unit is also reimbursing.

24 **NOTE:** A landowner may receive grants from 2 or more governmental units related to
25 the same project, provided that the landowner does not receive duplicate
26 reimbursement of the same costs. Combined federal, state and local government
27 grants may pay for more than 85% of project cost, provided that state funds do not
28 pay for more than 85%.

29
30 **ATCP 50.42 Maximum cost-share rates and grant amounts.** (1) GENERAL. A
31 county land conservation committee may determine cost-share rates and amounts. Cost-share
32 grants funded under this chapter may not exceed the maximum rates and amounts specified under

1 this section. A county land conservation committee shall determine the cost of a conservation
2 practice according to s. ATCP 50.40(15), and shall apply the applicable cost-share rate to that
3 cost.

4 (2) MAXIMUM COST-SHARE RATE. The maximum cost-share rate is 70%, except that the
5 maximum cost-share rate is 80% if the department makes an economic hardship finding under
6 sub. (6).

7 **NOTE:** See s. ATCP 50.06.

8 (3) CROPPING PRACTICES; MAXIMUM COST-SHARE AMOUNTS. Cost-share payments for the
9 following cropping practices may not exceed the following amounts:

10 (a) For contour farming, \$9 per acre.

11 (b) For cropland cover (green manure), \$25 per acre.

12 (c) For strip-cropping, \$13.50 per acre.

13 (d) For field strip-cropping, \$7.50 per acre.

14 (e) For high residue management systems, \$18.50 per acre.

15 (f) For no-till or ridge till systems, \$15 per acre.

16 (g) For mulch till systems, \$10 per acre.

17 (4) MAXIMUM GRANT AMOUNTS. (a) No cost-share grant to relocate an animal feeding
18 operation may exceed 70% of the estimated cost to install a manure management system or
19 related practices needed to resolve or prevent water quality problems at the abandoned site, or
20 70% of the eligible relocation costs at the new site, whichever site cost is less. Not more than
21 \$5,000 of the cost-share grant may be used to transport livestock from the abandoned site to the
22 new site.

1 (b) Combined payments by all governmental units for a manure storage system may not
2 exceed \$35,000, except that combined payments may not exceed \$45,000 if the department
3 makes an economic hardship finding under sub. (5).

4 **NOTE:** A manure management system may include several components including, but
5 not limited to, a manure storage system. The combined payment limitation under
6 par. (b) applies only to the manure storage system component. Combined
7 payments for an entire manure management system may exceed the limits
8 specified in par. (b).

9 (c) A cost-share grant for intensive grazing management under s. ATCP 50.77 may not
10 include more than \$2,000 for a watering system.

11 (5) ECONOMIC HARDSHIP FINDING. The department may make an economic hardship
12 finding under sub. (2) if the department finds all the following in writing based on
13 documentation filed with the department:

14 (a) The cost-shared practice is the most cost-effective way to achieve a compliance
15 objective under sub. (1).

16 (b) The landowner has a debt-to-asset ratio of more than 60%, and net assets of less than
17 \$200,000, as verified by a compilation of financial conditions prepared by a certified public
18 accountant.

19 (c) The landowner certifies, in a sworn affidavit, that the landowner has provided to the
20 certified public accountant under par. (b) a full and true disclosure of the landowner's assets and
21 liabilities, including a copy of the landowner's latest federal tax return. The landowner shall
22 make the affidavit on a form provided by the department.

forms

- 1 (c) The landowner will be able to pay the balance of the cost to install the practice. The
2 department shall make this finding based on a signed statement from an accredited financial
3 institution or a certified public accountant.

1 SUBCHAPTER VI

2 SOIL AND WATER PROFESSIONALS

- 3 ATCP 50.46 Agricultural engineering practitioners
- 4 ATCP 50.48 Nutrient management planners
- 5 ATCP 50.50 Soil testing laboratories
- 6 ATCP 50.52 Training for county staff

8 **ATCP 50.46 Agricultural engineering practitioners.** (1) GENERAL. No person, other
9 an agricultural engineering practitioner certified under this section or a professional engineer
10 registered under ch. 443, Stats., may certify any of the following for funding purposes under this
11 chapter or ch. NR 120:

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

14 **NOTE:** A design certification under par. (a) typically involves the preparation or
15 approval of a design document that prescribes the installation of an agricultural
16 engineering practice. The process typically requires the application of
17 engineering principles and methods, and may include several planning and design
18 components. For example, a practitioner may conduct a site inventory to gather
19 data for the design process, may identify or confirm particular water quality
20 problems on the site, and may evaluate the adequacy of the proposed practices to
21 address those problems.

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

24 **NOTE:** See ss. 92.18 and 443.14(10), Stats. Registered professional engineers, persons
25 working under the direct supervision of registered professional engineers, and
26 employees of the NRCS may also seek certification under this section. A state or
27 county employee certified under this section is exempt from the professional
28 engineering registration requirements of ch. 443, Stats., when engaged in state or
29 county activities under ch. 92 or s. 281.65, Stats., regardless of whether the
30 activities are funded under this chapter.

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

- 3 (a) Access road.
- 4 (b) Animal trail or walkway.
- 5 (c) Crevice and sinkhole treatment.
- 6 (d) Dam.
- 7 (e) Diversion.
- 8 (f) Filter strip.
- 9 (g) Grade stabilization structure.
- 10 (h) Grassed waterway.
- 11 (i) Heavy use area protection.
- 12 (j) Lined waterway or outlet.
- 13 (k) Milking center waste control management.
- 14 (L) Open channel.
- 15 (m) Pesticide and fertilizer mixing and loading facilities.
- 16 (n) Pipeline for livestock water supply.
- 17 (o) Pond.
- 18 (p) Pond sealing or lining.
- 19 (q) Roof runoff management.
- 20 (r) Sediment basin.
- 21 (s) Spring development.
- 22 (t) Stream channel stabilization.

1 (u) Streambank or shoreline protection.

2 (v) Subsurface drain.

3 (w) Surface drain; field ditch, main or lateral.

4 (x) Terrace.

5 (y) Trough or tank.

6 (z) Underground outlet.

7 (aa) Waste or manure management system.

8 (bb) Waste or manure storage facility.

9 (cc) Waste or manure transfer system.

10 (dd) Water and sediment control basin.

11 (ee) Water control structure.

12 (ff) Well decommissioning.

13 (gg) Wet detention basin.

14 (hh) Wetland development or restoration.

15
16 (3) AGRICULTURAL ENGINEERING PRACTITIONER; CERTIFICATION. A person who wishes

17 to be certified as an agricultural engineering practitioner shall apply to the department or a

18 county land conservation committee. An applicant may apply orally or in writing. The

19 department or the county land conservation committee shall promptly refer the application to the

20 department's designated field engineer. The field engineer shall evaluate the applicant and issue

21 a decision granting or denying the request.

22 **NOTE:** An applicant for certification need not apply to the department's offices in

23 Madison, but may apply directly to one of the department's field engineers. An

1 applicant's supervisor may also forward an application to the department's field
2 engineer.

3 (4) EVALUATING APPLICANTS FOR CERTIFICATION. (a) To evaluate an applicant under
4 sub. (3), the department's field engineer shall complete the certification form shown in
5 *Appendix E*. The field engineer shall rate the applicant under sub. (5) based on the applicant's
6 demonstrated knowledge, training, experience and record of appropriately seeking assistance.
7 Evaluations shall be fair and consistent.

8 (b) To evaluate an applicant, the department's field engineer may conduct interviews,
9 perform inspections, and require answers and documentation from the applicant. The field
10 engineer may ask engineering staff from NRCS to help evaluate an applicant.

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

14 1. Certify that design specifications for jobs in that class comply with standards under
15 this chapter or s. 281.65, Stats.

16 2. Certify that jobs in that class have been installed according to the approved design,
17 and according to any applicable standards and specifications.

18 **NOTE:** The rating system under par. (a) is designed to be reasonably consistent with the
19 system used by NRCS under 7 CFR 610.1 to 610.5. *Appendix E* is similar to the
20 NRCS job approval delegation form, and identifies the controlling factors used to
21 determine the relative difficulty of job classes. A person who is certified at a job
22 level under par. (a) may certify his or her own work at that level for funding
23 purposes under this chapter.

24 (b) If NRCS has previously rated an applicant under 7 CFR 610.1 to 610.5, the
25 department's field engineer shall give that applicant the same initial rating. Within 18 months

1 after the field engineer makes the initial rating, the department's field engineer shall review that
2 rating under sub. (7).

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

6 (6) CERTIFICATION DECISION. (a) The department's field engineer shall act on a
7 certification application under sub. (3) within 30 days after the field engineer receives that
8 application, provided that the applicant promptly submits relevant information and
9 documentation requested by the field engineer.

10 **NOTE:** When recertifying an applicant who was previously certified by the department
11 or NRCS, the department's field engineer may raise one or more rating levels,
12 lower one or more rating levels, or reaffirm one or more rating levels.

13 (b) Whenever the department's field engineer certifies an agricultural engineering
14 practitioner, the field engineer shall issue a written certification in the form shown in
15 *Appendix E*. The certification becomes effective when signed by all the following:

16 1. The field engineer.

17 2. The practitioner certified.

18 3. The practitioner's supervisor if any.

19 (c) Whenever the department's field engineer denies a request under sub. (3) for a
20 specific certification rating, the field engineer shall issue the denial in writing and shall specify
21 the reasons for the denial.

1 (d) The department's field engineer shall retain a copy of each certification under par. (b),
2 each denial under par. (c), and any other documentation received or compiled in connection with
3 an application under sub. (3).

4 (7) REVIEWING CERTIFICATION RATINGS. (a) A department field engineer shall review
5 each certification rating under sub. (5) at least once every 3 years, and may review a rating at any
6 time. A field engineer shall review a rating whenever a certified agricultural engineering
7 practitioner requests that review.

8 (b) Based on a review under par. (a), a department field engineer shall issue a new
9 certification rating which reaffirms or modifies the prior rating under sub. (5). The field engineer
10 shall provide a copy of each new rating to the person rated. The field engineer may not reduce a
11 rating except for good cause.

12 (c) A field engineer shall document, in writing, his or her reasons for reducing a
13 certification rating under sub. (5), or for refusing to make a requested rating change. The field
14 engineer shall provide that documentation to the person rated, and to that person's supervisor if
15 any.

16 (8) APPEALS. (a) An affected person may appeal a field engineer's action under sub. (5),
17 (6) or (7). The affected person shall file his or her appeal in writing, with the field engineer,
18 within 10 business days after the applicant receives notice of the field engineer's action. The
19 appeal shall identify the specific matters in dispute and the specific basis for the appeal.

20 (b) Within 15 business days after the department's field engineer receives an appeal
21 under par. (a), the field engineer shall hold an informal meeting with the appellant. The meeting