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1 SUBCHAPTER II

2 SOIL AND WATER CONSERVATION ON FARMS

- 3
- 4 ATCP 50.04 Farm conservation practices
- 5 ATCP 50.06 Installing conservation practices
- 6 ATCP 50.08 Cost-sharing required
- 7

8 **NOTE:** Under s. 281.16, Stats., DNR is primarily responsible for adopting
 9 performance standards to prevent pollution runoff from farms. The
 10 department of agriculture, trade and consumer protection ("DATCP")
 11 must prescribe conservation practices to implement the DNR performance
 12 standards. DATCP must also establish soil conservation and farm nutrient
 13 management requirements. This subchapter spells out a single set of farm
 14 conservation practices that incorporates DNR performance standards by
 15 reference. Counties play a major role in implementing conservation
 16 practices on farms (see subchapter III of this chapter). Conservation
 17 requirements are contingent on cost-sharing (see s. ATCP 50.08).
 18

19 **ATCP 50.04 Farm conservation practices.** Except as provided in s. ATCP
 20 50.08, a landowner engaged in agricultural practices in this state shall implement the
 21 following conservation practices:

22 (1) **NONPOINT SOURCE POLLUTION CONTROL.** A landowner shall implement
 23 conservation practices that achieve compliance with DNR performance standards under
 24 ss. NR 151.02 to NR 151.08.

25 (2) **CROPLAND SOIL EROSION CONTROL.** A landowner shall manage croplands and
 26 cropping practices so that soil erosion rates on cropped soils, determined according to
 27 RUSLE 2 equation, do not exceed T-value.

28 **NOTE:** See s. 92.025(1), Stats., and s. NR 151.02. Soil erosion includes erosion
 29 caused by wind or water. For most soils, "T-value" is equivalent to 3 to 5
 30 tons of soil loss per acre per year.

31
 32 The RUSLE 2 equation is published by NRCS, and is available from
 33 NRCS. Copies are on file with the department, the secretary of state and
 34 the revisor of statutes.
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1 (3) NUTRIENT MANAGEMENT PLAN. (a) A landowner shall have and follow an
2 annual nutrient management plan when applying nutrients to any field after the date
3 specified in par. (h). A nutrient management plan shall comply with this subsection.

4 (b) The plan shall include every field on which the landowner mechanically
5 applies nutrients.

6 (c) A nutrient management planner qualified under s. ATCP 50.48 shall prepare
7 or approve the plan.

8 **NOTE:** A landowner who has the knowledge and skills described in s. ATCP
9 50.48(1) may prepare his or her own nutrient management plan. ATCP
10 50.48 does not require a planner to obtain a state certification, complete a
11 training program or hold specific professional credentials. Persons
12 holding certain credentials are presumed to be qualified, but other persons
13 may also demonstrate their qualifications by preparing sound nutrient
14 management plans. A person may not misrepresent himself or herself as a
15 qualified nutrient management planner.

16
17 (d) The plan shall be based on soil nutrient tests conducted at a laboratory
18 certified under s. ATCP 50.50.

19 (e) The plan shall comply with the NRCS technical guide nutrient management
20 standard 590 dated March, 1999.

21 **NOTE:** The checklist in *Appendix C* may be used to gather information for a
22 nutrient management plan. NRCS technical guide nutrient management
23 standard 590 (March, 1999) is reproduced in *Appendix D*. That standard is
24 a nitrogen-based standard. However, NRCS is in the process of revising it
25 to incorporate a phosphorus-based standard. The department will initiate
26 rulemaking to adopt the NRCS phosphorus-based standard by January 1,
27 2005 if NRCS has adopted that standard by that date.

28
29 (f) The plan may not recommend nutrient applications that exceed the amounts
30 required to achieve applicable crop fertility levels recommended by the university of
31 Wisconsin-extension in *Soil Test Recommendations for Field, Vegetable and Fruit Crops*,

1 UWEX publication A-2809 (1998), unless the nutrient management planner can show
2 that one or more of the following circumstances justifies the recommended application:

- 3 1. A soil or tissue test reveals a specific nutrient deficiency.
- 4 2. Excess nutrients are the result of an unforeseen change in the type of crop
5 planted.
- 6 3. Excess nutrients are the result of prior manure applications.
- 7 4. Organic nutrients are the only nutrients applied to the field.
- 8 5. Excess nutrients from organic nutrient applications will be used later in the
9 planned crop rotation.
- 10 6. Corn after corn is conservation tilled with greater than 50% residue after
11 planting.
- 12 7. Starter fertilizer is properly applied to row crops.
- 13 8. The crop is irrigated.
- 14 9. Other special agronomic conditions documented by the planner.

15 **NOTE:** Appendix B contains a convenient summary of UWEX publication A-
16 2809, for selected crops. You may obtain the complete publication and
17 the summary from your county extension agent. The complete publication
18 is also on file with the department, the secretary of state and the revisor of
19 statutes.
20

21 (g) The plan shall be consistent with any nutrient management plan required
22 under ch. NR 113, NR 204 or NR 214 if the landowner applies septage, municipal sludge,
23 industrial waste or industrial byproducts to the land. A landowner is not required to have
24 a nutrient management plan under this subsection if the landowner applies only septage,
25 municipal sludge, industrial waste or industrial byproducts according to ch. NR 113, NR
26 204 or NR 214.

1 (h) Paragraph (a) first applies on the following dates for the following lands:

2 1. January 1, 2005 for land located in watersheds draining to outstanding or
3 exceptional resource waters designated in NR 102.

4 2. January 1, 2005 for land located in watersheds draining to impaired waters that
5 DNR has listed pursuant to 33 USC 1313 and 40 CFR 130.7, if the impairment relates to
6 excessive nutrients.

7 **NOTE:** The list under subd. 2 is known as the "303(d) list of impaired waters."
8 *Appendix A* contains a map showing the watersheds that drain to listed
9 waters.

10 3. January 1, 2005 for land located in source water protection areas defined in s.
11 NR 243.03.

12 4. January 1, 2008 for other lands, except that it first applies to new cropland as
13 described by NR 151.09(4)(b) on *[...revisor inserts date that is one year after the*
14 *effective date of this recreated chapter...]*.

15
16 **NOTE:** The delayed effective dates under par. (h) correspond to the delayed
17 effective dates under NR 151.07.

18 **ATCP 50.06 Installing conservation practices.** (1) **GENERAL.** A landowner
19 may use any of the following to comply with s. ATCP 50.04, unless s. ATCP 50.04
20 mandates a specific practice:
21

22 (a) Conservation practices identified in subch. VIII or the NRCS technical guide.

23 (b) Other conservation practices that comply with s. ATCP 50.04.

24 (2) **FUNDED PRACTICES.** Conservation practices for which a landowner receives a
25 cost-share grant under this chapter shall comply with subch. VIII.

26 **NOTE:** A county land conservation committee can provide landowners with a
27 helpful document called "Farmland Conservation Choices: A Guide to
28 Environmentally Sound Practices for Wisconsin Farmers." The

1 committee can also recommend conservation practices that are appropriate
2 for the landowner's farm. Cost-share grants may be available to help
3 landowners install or maintain recommended practices. Landowners may
4 contact their county land conservation committee to apply for cost-share
5 grants. If a landowner receives a cost-share grant for a conservation
6 practice, that practice must comply with subch. VIII.

7
8 Counties have land and water resource management plans to promote
9 compliance with farm conservation requirements (see s. ATCP 50.12).
10 Counties will seek voluntary compliance and will offer information, cost-
11 sharing and technical assistance to help landowners comply.

12
13 As a last resort, a county may seek enforcement action against a
14 landowner who refuses to implement required conservation practices. A
15 county may not seek enforcement action until it complies with applicable
16 cost-sharing requirements under s. ATCP 50.08. A county may pursue
17 any of the following enforcement options, as appropriate:

- 18
19 • The county may suspend a violator's eligibility for farmland
20 preservation tax credits (see s. ATCP 50.16(6)).
- 21
22 • DNR may issue a notice of discharge, requiring a violator to obtain
23 a pollution discharge permit from DNR (see ch. NR 243).
- 24
25 • The department of justice or a district attorney may file a civil
26 forfeiture action against the violator (see s. 281.98, Stats.).
- 27
28 • The county may take action to enforce its own ordinance, if any.
- 29
30 • A town, city or village may take action to enforce its own
31 ordinance, if any.

32
33 County compliance procedures should be consistent with this chapter and
34 ss. NR 151.09 and 151.095. A county should spell out compliance
35 procedures in its land and water resource management plan, as provided in
36 s. ATCP 50.12(2). The department and DNR will work with counties to
37 develop suggested guidelines for county compliance programs.

38
39 **ATCP 50.08 Cost-sharing required.** (1) GENERAL. A landowner is not
40 required to do any of the following, under s. ATCP 50.04, unless the landowner receives
41 a bona fide offer of cost-sharing:

1 (a) Discontinue or modify cropping practices on existing cropland. In this
2 paragraph, “existing cropland” has the meaning given in s. NR 151.09(4)(b).

3 **NOTE:** Under DNR rules, a landowner is normally *entitled* to cost-sharing if the
4 landowner is *required* to discontinue or modify cropping practices on
5 “existing cropland” in order to comply with a DNR performance standard.
6 Other cropland must comply with relevant DNR performance standards,
7 *regardless* of the availability of cost-sharing. Under DNR rules:

- 8
- 9 • Land qualifies as “existing cropland” if it was being cropped on the
10 effective date of the relevant DNR performance standard, and has
11 never complied with that performance standard since that date.
 - 12
 - 13 • If cropland *complies* with a DNR performance standard after that
14 standard takes effect, it no longer qualifies as “existing cropland” for
15 cost-share purposes under that performance standard. If the cropland
16 later falls out of compliance with the performance standard, the
17 landowner must restore compliance regardless of the availability of
18 cost-sharing.
 - 19
 - 20 • Land not cropped on the effective date of a DNR performance
21 standard, but returned to cropping at a later date, may qualify as
22 “existing cropland” if it is returned to cropping within 10 years after
23 cropping was halted.
 - 24
 - 25 • Cropland enrolled in a federal conservation program on *[...revisor*
26 *inserts effective date of NR 151...]* qualifies as “existing cropland”
27 when it comes out of the federal program.

28
29 A landowner may be *eligible* for cost-sharing, even if the landowner is not
30 *entitled* to cost-sharing under par. (a). A county has considerable
31 discretion in its use of DATCP cost-share funds, subject to this chapter.
32 See subch. V of this chapter.

33
34 (b) Discontinue or modify an existing livestock facility or operation. In this
35 paragraph, “existing livestock facility or operation” has the meaning given in NR
36 151.095(5)(b).

37 **NOTE:** Under DNR rules, a landowner is normally *entitled* to cost-sharing if the
38 landowner is *required* to discontinue or modify an “existing” livestock
39 facility or operation in order to comply with a DNR performance standard.
40 Other livestock facilities and operations must comply with DNR

1 performance standards, *regardless* of the availability of cost-sharing.
2 Under DNR rules:

- 3
- 4 • A livestock facility or operation qualifies as an “existing” facility or
5 operation if it existed on the effective date of the DNR performance
6 standard, and has never complied with that performance standard since
7 that date.
 - 8
 - 9 • If a livestock facility or operation *complies* with a DNR performance
10 standard after that standard takes effect, it no longer qualifies as an
11 “existing” facility or operation for cost-share purposes under that
12 performance standard. If the facility or operation later falls out of
13 compliance with the performance standard, the landowner must restore
14 compliance regardless of the availability of cost-sharing.
 - 15
 - 16 • A livestock facility that existed but held no livestock on the effective
17 date of a DNR performance standard may qualify as an “existing”
18 facility if it is restocked within 5 years after livestock were last
19 present.
 - 20
 - 21 • If a landowner voluntarily expands or alters a livestock facility after
22 the effective date of a DNR performance standard, the newly
23 constructed portion of the facility will not qualify as an “existing”
24 facility for cost-share purposes under that performance standard.
25 (There are limited exceptions.)

26
27 A landowner may be *eligible* for cost-sharing, even if the landowner is not
28 *entitled* to cost-sharing under par. (b). A county has considerable
29 discretion in its use of DATCP cost-share funds, subject to this chapter.
30 See subch. V of this chapter.

31
32 (2) COST-SHARE AMOUNT. A cost-share offer under sub. (1) shall cover at least
33 70% of the landowner’s cost to install and maintain each required conservation practice,
34 or 90% of the landowner’s cost if there is an economic hardship under s. ATCP 50.42(4).

35 **NOTE:** See ss. 92.07(2), 92.105(1), 92.15(4) and 281.16(3)(e), Stats. Subsection
36 (1) requires a bona fide *offer* of cost-sharing, not necessarily an
37 acceptance. A county may impose a reasonable deadline by which a
38 landowner must accept or reject the county’s bona fide cost-sharing offer
39 under sub. (1). See s. ATCP 50.54(2) related to cost-sharing for
40 conservation practices required under a county or local ordinance.

41
42 The minimum cost-share requirement under subs. (1) and (2) does *not*
43 apply if a landowner *voluntarily* installs a cost-shared practice. In a

1 voluntary transaction, the county is free to negotiate a grant amount with a
2 landowner (up to the *maximum* amounts provided in s. ATCP 50.42). But
3 if a county *requires* a landowner to install a conservation practice, the
4 county must comply with applicable cost-share requirements under subs.
5 (1) and (2). The cost-share grant may come from one or more sources, as
6 provided under sub. (7).
7

8 (3) LANDOWNER'S COST. A landowner's cost to install and maintain a
9 conservation practice includes all of the following that apply:

10 (a) The landowner's reasonable and necessary expenditures to install and
11 maintain the conservation practice. This includes eligible installation costs identified in ,
12 subch. VIII, and costs for engineering services under s. ATCP 50.40(7).

13 (b) The reasonable value of necessary labor, equipment and supplies provided by
14 the landowner in the installation and maintenance of the conservation practice. This does
15 not include normal operating routines such as clean-outs of barnyards, storage facilities
16 and gutters.

17 (c) The reasonable value of mowing provided by the landowner, up to a
18 maximum of 2 mowings per year and \$10 per mowing, if that mowing is necessary to
19 maintain the conservation practice.

20 (d) The landowner's cost to take or keep land out of agricultural production, if
21 the landowner must take or keep more than ½ acre out of agricultural production in order
22 to install or maintain the conservation practice. The landowner's cost, determined on the
23 date of the cost-share contract, equals the sum of the annual costs that the landowner will
24 incur over the maintenance period specified in the cost-share contract. The landowner's
25 annual cost, for each year of the maintenance period, equals the number of affected acres
26 multiplied by the per-acre weighted average soil rental rate in the county on the date of
27 the cost-share contract.

1 **NOTE:** If a county *requires* a landowner to install a conservation practice that
2 changes an "existing" agricultural operation, the county must offer cost-
3 sharing. If the cost-shared practice is a capital improvement, the
4 landowner must agree to maintain it for at least 10 years. The cost-share
5 contract must pay the required minimum share of the landowner's cost
6 under sub. (3). If the landowner must take more than ½ acre out of
7 production, the landowner's cost includes the cost of taking that land out
8 of production.

9
10 After the contract maintenance period has expired, the landowner may
11 resume production in the affected area unless parties enter into a new cost-
12 share contract to keep the land out of production (see sub. (5)(a)). The
13 parties may negotiate the term of each contract, as long as each contract
14 specifies a maintenance term of at least 10 years. If the landowner wishes
15 to take advantage of the CREP-equivalent payment for riparian land under
16 sub. (4), the landowner must agree to keep the land out of production for
17 at least 15 years, or in perpetuity.

18
19 The United States department of agriculture, farm service agency, has
20 determined the weighted average soil rental rate for each county, on form
21 CRP-2. See s. ATCP 50.01(39).

22
23 Land is not taken "out of agricultural production," for purposes of sub. (3),
24 if the landowner is free to use it for pasture, hay production *and* cropping
25 subject to residue management (see s. ATCP 50.01(14)).

26
27 (4) RIPARIAN LAND TAKEN OUT OF PRODUCTION; CREP-EQUIVALENT PAYMENT. (a)

28 If a landowner must take or keep more than ½ acre of riparian land out of agricultural
29 production in order to install or maintain a conservation practice, the cost-share offer
30 under sub. (1) for that conservation practice shall be at least equal to the amount that
31 would be offered under the CREP program if the affected lands were enrolled in that
32 program, regardless of whether the lands are actually eligible for the CREP program.

33 (b) Paragraph (a) does not apply unless the landowner agrees to keep the land
34 out of agricultural production for 15 years, or in perpetuity, under contract terms
35 equivalent to those that apply under the CREP program.

1 (c) Paragraph (a) does not apply to a cost-share offer made after the CREP
2 program expires.

3 **NOTE:** The CREP program is the combined state-federal conservation reserve
4 enhancement program administered by the department and the United
5 States department of agriculture (see ATCP 50.01(7)). Under the CREP
6 program, lands are enrolled for 15 years or in perpetuity. Lands enrolled
7 in perpetuity are subject to a permanent conservation easement.

8
9 Land is not taken "out of agricultural production," for purposes of sub. (4)
10 if the landowner is free to use it for pasture, hay production and cropping
11 subject to residue management (see s. ATCP 50.01(14)).

12
13 (5) EXEMPTIONS. The cost-sharing requirement under sub. (1) does not apply to
14 any of the following:

15 (a) A conservation practice that has already been cost-shared for at least 10 years.

16 This exemption does not apply to costs under sub. (3)(d).

17 **NOTE:** For example, if a county has *already paid* a landowner to install and
18 maintain a manure storage system for at least 10 years (see s. ATCP
19 50.62(5)(f)), the county may require the landowner to maintain the facility
20 in subsequent years without further cost-sharing. The county has the
21 burden of showing that it has already paid the landowner.

22
23 The rule is different if the county requires a landowner to take more than
24 ½ acre of land out of agricultural production in order to install or maintain
25 a conservation practice. Even if a county has *already paid* a landowner to
26 install and maintain that conservation practice for at least 10 years, the
27 county must *continue* to cost-share lost production if the county *requires*
28 the landowner to keep the land out of production in subsequent years.
29 Land is not taken "out of agricultural production," for cost-sharing
30 purposes, if the landowner is free to use it for pasture, hay production *and*
31 cropping subject to residue management (see s. ATCP 50.01(14)).

32
33 (b) The following conservation practices if those practices have already been
34 cost-shared for at least 4 years:

35 1. Contour farming as defined in s. ATCP 50.67(1).

36 2. Cropland cover as defined in s. ATCP 50.68(1).

- 1 3. Nutrient management as defined in s. ATCP 50.78(1).
- 2 4. Pesticide management as defined in s. ATCP 50.79(1).
- 3 5. Residue management as defined in s. ATCP 50.82(1).
- 4 6. Strip-cropping as defined in s. ATCP 50.89(1)

5 **NOTE:** For example, if a county has *already paid* a landowner to implement
6 nutrient management for at least 4 years, the county may require the
7 landowner to comply with state nutrient management standards in
8 subsequent years without further cost-sharing. The same holds true for
9 other “soft” practices under par. (b) if those practices are needed to meet
10 the conservation standards under s. ATCP 50.04. The county has the
11 burden of showing that it has *already paid* the landowner to maintain the
12 conservation practice for at least 4 years.
13

14 (c) Conservation practices or costs for which cost-sharing is prohibited under s.
15 ATCP 50.40(3)(b) or subch. VIII.

16 (d) Conservation practices or costs to correct a landowner’s criminal or grossly
17 negligent discharge of pollutants to waters of the state.

18 (e) Conservation practices required by a WPDES permit issued under ch. NR
19 243.

20 (6) COMPLIANCE ACTIONS NOT AFFECTED. Subsection (1) does not limit any of
21 the following:

22 (a) An emergency or interim response to a pollution discharge, to prevent or
23 mitigate imminent harm to waters of the state.

24 (b) County action under s. ATCP 50.16(6) to suspend a landowner’s eligibility
25 for farmland preservation tax credits, if the landowner fails to comply with conservation
26 standards under s. ATCP 50.16(1).

27 (c) Enforcement of an existing cost-share contract.

1 (7) COST-SHARE GRANT SOURCES. A grant from any public or private source, or
2 combination of sources, may be counted as part of a cost-share grant under sub. (1). A
3 loan is not a grant.

1 (f) An accounting and recordkeeping system under s. ATCP 50.22.

2 (g) An information and education program to promote effective soil and water
3 resource management.

4 (h) Other program elements, if any, required under this chapter.

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

8 (a) The county's land information and modernization program under ss. 16.967
9 and 59.72(3), Stats.

10 (b) The related activities of NRCS, state agencies and other governmental entities
11 in that county.

12 **ATCP 50.12 Land and water resource management plan.** (1) REQUIREMENT.
13 A county land conservation committee shall prepare and submit, for department approval,
14 a land and water resource management plan. The department shall approve the county
15 plan before allocating any funds to the county under subch. IV.

16 (2) PLAN CONTENTS. A land and water resource management plan shall describe
17 all of the following in reasonable detail:

18 (a) Water quality and soil erosion conditions throughout the county. The plan
19 shall include water quality assessments available from DNR, if any.

20 (b) State and local regulations that the county will use to implement the county
21 plan. The department may require the county to provide copies of relevant local
22 regulations, as necessary, and may comment on those regulations.

23 **NOTE:** See state rules under chs. ATCP 48, ATCP 50, NR 120, NR 151 and NR
24 243.

1
2 (c) Water quality objectives for each water basin, priority watershed as defined in
3 s. 281.65(2)(c), Stats., and priority lake as defined in s. 281.65(2)(be), Stats. The county
4 shall determine water quality objectives in consultation with DNR.

5 (d) Key water quality and soil erosion problem areas. The county land
6 conservation committee shall identify key water quality problem areas in consultation
7 with DNR.

8 (e) Conservation practices needed to address key water quality and soil erosion ,
9 problems.

10 (f) A plan to identify priority farms in the county.

11 **NOTE:** The identification of priority farms may vary between counties,
12 depending on local conditions, strategies and information. A county
13 should focus on identifying or working with the following farms, or other
14 categories of farms that the county identifies in its plan:

- 15 • Critical sites that DNR designates under s. 281.65(4)(g)8.am., Stats.
- 16 • Farms subject to a DNR notice of intent under s. 281.20 or notice of
17 discharge under ch. 283, Stats.
- 18 • Farms located in watersheds draining to waters that DNR has listed
19 pursuant to 33 USC 1313. This is also known as the "303(d) list of
20 impaired waters." *Appendix A* contains a map showing the watersheds
21 that drain to listed waters.
- 22 • Farms that have large numbers of livestock, or significant problems
23 with manure management.
- 24 • Farms making clearly excessive nutrient applications.
- 25 • Farms with clearly excessive rates of cropland erosion.

26 (g) County strategies to encourage voluntary implementation of conservation
27 practices under s. ATCP 50.04. County strategies may include information and
28 education, cost-sharing, technical assistance and other strategies.
29
30
31
32
33
34
35

1 (h) Compliance procedures, including notice, hearing, enforcement and appeal
2 procedures, that will apply if the county takes action against a landowner for failure to
3 implement conservation practices required under this chapter, NR 151 or related local
4 regulations.

5 **NOTE:** See ss. ATCP 50.04 to 50.08 and subch. VII.

6 (i) The county's multi-year workplan to implement the farm conservation
7 practices under s. ATCP 50.04, and achieve compliance with performance standards
8 under ch. NR 151. The plan shall identify priorities and expected costs.

9 **NOTE:** The county workplan under par. (i) should be based on a reasonable
10 assessment of available funding and resources.

11
12 (j) How the county will monitor and measure its progress under par. (i).

13 (k) How the county will provide information and education related to land and
14 water conservation, including information related to farm conservation practices and
15 cost-share funding.

16 (L) How the county will coordinate its land and water conservation program with
17 federal, state and local agencies.

18 (3) PLAN DEVELOPMENT. A county land conservation committee, when preparing
19 a land and water resource management plan, shall do all of the following:

20 (a) Appoint and consult with a local advisory committee of interested persons.

21 **NOTE:** A local advisory committee should reflect a broad spectrum of public
22 interests and perspectives. For example, it could include:

- 23 • Affected farmers, businesses and landowners.
 - 24 • Agricultural, business, environmental, civic and recreational
25 organizations.
 - 26 • Federal, state, local and tribal officials.
 - 27 • The university of Wisconsin and other educational institutions.
- 28

1 (b) Assemble relevant data, including relevant land use, natural resource, water
2 quality and soil data.

3 (c) Consult with DNR.

4 **NOTE:** The county land conservation committee should normally consult with
5 the appropriate DNR basin team.

6
7 (d) Assess resource conditions and identify problem areas.

8
9 (e) Establish and document priorities and objectives.

10
11 (f) Project available funding and resources.

12
13 (g) Establish and document a plan of action.

14
15 (h) Identify roles and responsibilities.

16
17 (4) PUBLIC NOTICE AND HEARING. Before a county land conservation committee
18 submits a land and water resource management plan for department approval, the
19 committee shall do all of the following:

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

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

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

27
28 (5) PLAN APPROVAL. The department shall approve or disapprove a county land
29 and water resource management plan after consulting with the LWCB. The department
30 may approve a plan that complies with this section. The secretary shall sign the order
31 approving or disapproving the county plan. The department shall approve a plan for a
32 specified period of time that shall not exceed 5 years, subject to conditions that the

1 department specifies in the order. The department's approval does not take effect if the
2 county board does not approve the county plan.

3 **NOTE:** The county board may approve the county land and water resource
4 management plan before or after the department approves the plan. The
5 plan approved by the county board must be the same plan approved by the
6 department. If the department requires changes to a plan previously
7 approved by the county board, the department's approval does not take
8 effect until the county board approves the modified plan.

9
10 (6) **PLAN IMPLEMENTATION.** The department may review county implementation
11 of an approved county land and water resource management plan. The department may
12 consider information obtained in its review when it makes annual grant allocations to
13 counties under subch. IV.

14 **ATCP 50.14 County ordinances.** A county may, by ordinance, require
15 landowners to implement conservation practices required under s. ATCP 50.04. A
16 county shall comply with applicable requirements under subch. VII.

17 **NOTE:** See county authority under ss. 59.69, 59.692, 92.11, 92.15, 92.16 and
18 92.17, Stats. This section does not expand a county's statutory authority.
19 A county ordinance implementing conservation practices under s. ATCP
20 50.04 should be reasonably consistent with s. ATCP 50.04. A county
21 livestock ordinance must comply with s. ATCP 50.60 and s. 92.15, Stats.
22 DATCP may review and comment on a county ordinance (see ss. ATCP
23 50.12 and 50.54). Cost-sharing under a local ordinance must be at least
24 equivalent to cost-sharing under s. ATCP 50.08 (see s. ATCP 50.54).

25
26 **ATCP 50.16 Farmland preservation program; conservation standards. (1)**
27 **STANDARDS REQUIRED. (a)** A county land conservation committee shall adopt soil and
28 water conservation standards, under s. 92.105, Stats., for all lands for which landowners
29 claim farmland preservation tax credits under subch. IX of ch. 71, Stats. The standards
30 shall incorporate and be consistent with the farm conservation practices required under s.
31 ATCP 50.04.

1 **NOTE:** See ss. 91.80 and 92.105, Stats. Under the farmland preservation
2 program, an "owner" of "eligible farmland" (as defined in ss. 91.01(9) and
3 (6), Stats.) may claim farmland preservation tax credits if the land is
4 covered by a farmland preservation agreement or exclusive agricultural
5 zoning ordinance. (The LWCB must certify the ordinance.) To claim the
6 tax credits, the "owner" must comply with county soil and water
7 conservation standards approved by the LWCB. Section ATCP 50.16
8 requires the county to incorporate, in the county's standards, the farm
9 conservation practices required under s. ATCP 50.04. The county
10 standards must be consistent with s. ATCP 50.04.

11
12 (b) The LWCB may deny or withdraw certification, under s. 91.06, Stats., of an
13 exclusive agricultural zoning ordinance in a county that fails to comply with par. (a).

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

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

20 **NOTE:** A county land conservation committee should consult with the
21 department before holding a public hearing on proposed soil or water
22 conservation standards or amendments.
23

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

26 (b) A county land conservation committee may submit a proposed standard or
27 amendment to the department, for approval by the LWCB. The department shall submit
28 the proposed standard or amendment to the LWCB and shall recommend approval,
29 conditional approval or disapproval. The department shall provide the LWCB with a
30 proposed decision, including proposed findings, proposed conclusions and a proposed
31 order.

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

- 4 1. The standard or amendment fails to comply with s. 92.105, Stats., or this
5 chapter.
- 6 2. The standard or amendment does not reasonably conform to guidelines that the
7 LWCB has established under s. 92.105(2), Stats.
- 8 3. The standard or amendment is arbitrary or capricious.
- 9 4. The county land conservation committee has failed to provide the department
10 or the LWCB with requested information that is reasonably relevant to the LWCB's
11 review of the standard or amendment.

12 **NOTE:** Under s. 227.42, Stats., a county land conservation committee may
13 request a contested case hearing on an LWCB decision that is adverse to
14 the committee. If the LWCB grants the hearing request, it may ask the
15 department to appoint an impartial hearing examiner to conduct the
16 hearing. The LWCB may affirm or modify its decision based on the
17 hearing record. A county land conservation committee may also seek
18 judicial review under ch. 227, Stats.

19
20 (4) FARM CONSERVATION PLANS. A county land conservation committee may
21 enter into a farm conservation plan with a landowner. A landowner meets the
22 conservation standards under sub. (1) if the landowner implements a farm conservation
23 plan that will achieve full compliance with those standards within 5 years.

24 (5) MONITORING COMPLIANCE. (a) A county land conservation committee may
25 inspect a landowner's compliance with the conservation standards under sub. (1) and any
26 farm conservation plan under sub. (4). A county land conservation committee shall
27 inspect each landowner's compliance with the conservation standards under sub. (1) at

1 least once every 6 years, or on another basis that the secretary approves in writing after
2 consulting the LWCB.

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

7 (6) NOTICE OF NONCOMPLIANCE. (a) A county land conservation committee shall
8 issue a written notice of noncompliance to a landowner if the committee finds that the
9 landowner has done any of the following:

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

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

- 18 1. The nature of the violation, and a deadline date for curing the violation.
- 19 2. That the landowner may not claim farmland preservation tax credits under
20 subch. IX of ch. 71, Stats., unless the landowner corrects the violation.
- 21 3. That the landowner may meet with the county land conservation committee to
22 contest or discuss the violation.

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

4 1. The state of Wisconsin department of revenue.

5 2. The county planning and zoning committee if the land is covered by an
6 exclusive agricultural zoning ordinance.

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

10 **ATCP 50.18 Annual report.** (1) ANNUAL REPORT. By April 15 of each year, a
11 county land conservation committee shall file with the department a year-end report for
12 the preceding calendar year. The committee shall file the report on a form provided by
13 the department. The report shall identify all of the following:

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

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

20 (c) The county's financial contribution toward staffing the activities of the county
21 land conservation committee in the preceding calendar year. The county may include
22 contributions for employee salaries and fringe benefits, employee support costs,
23 independent contractor fees, and training for employees and land conservation committee

1 members. A county may not include capital expenditures, or expenditures reimbursed
2 from other governmental entities.

3 (2) FAILURE TO FILE ANNUAL REPORT. The department may withhold funding
4 under this chapter from a county land conservation committee that fails to file a timely
5 annual report under sub. (1).

6 **ATCP 50.20 Annual grant application.** By April 15 of each year, a county
7 land conservation committee shall file with the department its application for funding
8 under this chapter for the next calendar year. The application shall comply with s. ATCP
9 50.26.

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

11 **ATCP 50.22 Accounting and recordkeeping.** A county land conservation
12 committee, in consultation with the county's chief financial officer, shall establish and
13 maintain an accounting and recordkeeping system. The accounting and recordkeeping
14 system shall do all of the following:

15 (1) Fully and clearly account for the receipt, handling and disposition of all funds
16 that the committee receives under s. 92.14, Stats., and this chapter.

17 (2) Document county compliance with s. 92.14, Stats., and this chapter, and each
18 grant contract under this chapter.

19 (3) Include records required under s. ATCP 50.32(9) related to annual staffing
20 grants.

21 (4) Include records required under s. ATCP 50.34(7) related to cost-share grants
22 for conservation practices.

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

4 (1) Require the committee to provide relevant information requested by the
5 department, including information from the county's annual financial and compliance
6 audit.

7 **NOTE:** A county is currently required to have an annual, organization-wide
8 financial and compliance audit that complies with the *State Single Audit*
9 *Guidelines* issued by the Wisconsin department of administration. This
10 "single audit" currently includes an audit of the county's use of funds
11 awarded to the county under this chapter. The audit must comply with
12 *Audit Guidelines for the Soil and Water Resource Management Grant*
13 *Program*, issued annually by the Wisconsin department of agriculture,
14 trade and consumer protection. The department of agriculture, trade and
15 consumer protection may conduct additional audits, as it deems necessary.
16 The county may use funds provided under s. ATCP 50.32 to pay a
17 proportionate share of the county's costs for annual financial and
18 compliance audits.

19
20 (2) Require the committee to discuss, with the department, county compliance
21 with this chapter.

22 (3) Inspect and copy relevant county records.

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

24

1 SUBCHAPTER IV

2 GRANTS TO COUNTIES

- 3 ATCP 50.26 Grant applications
- 4 ATCP 50.28 Annual grant allocation plan
- 5 ATCP 50.30 Grant priorities
- 6 ATCP 50.32 Annual staffing grants to counties
- 7 ATCP 50.34 Grants for conservation practices
- 8 ATCP 50.36 Grant contracts

9

10 **ATCP 50.26 Grant applications.** (1) ANNUAL APPLICATION. A county land

11 conservation committee shall apply by April 15 of each year to obtain funding under this,

12 chapter for the next calendar year. The committee shall apply to the department on a

13 form provided by the department. The application shall comply with this section.

14 **NOTE:** The department and DNR will jointly solicit grant applications from

15 county land conservation committees under ss. 92.14, 281.65, and 281.66,

16 Stats. The department and DNR will distribute grant application forms as

17 soon as possible prior to January 31 of each year, for return by April 15 of

18 that year. The department and DNR will prepare a joint allocation plan

19 after reviewing county grant applications. The department and DNR will

20 make annual grant allocations after obtaining LWCB recommendations on

21 their draft allocation plan.

22

23 Before it distributes grant application forms to the counties, the

24 department will consult with county representatives regarding the

25 department's potential funding priorities. The department will then give

26 notice to all counties of its potential priorities when it distributes grant

27 applications to the counties. The department may modify its potential

28 priorities based on the actual grant applications that the counties submit.

29

30 (2) ANNUAL STAFFING GRANT. A county land conservation committee may

31 request funding for county staff and support, including funding for employees and

32 independent contractors who work for the county land conservation committee. The

33 request shall identify all of the following:

1 (a) The activities for which the county seeks funding. These may include
2 activities under this chapter, CREP program activities, and priority watershed activities
3 previously funded under ch. NR 120.

4 **NOTE:** The Wisconsin legislature restructured the state's nonpoint source
5 pollution abatement program in 1997 and 1999. As part of that
6 restructuring, DNR is phasing out its priority watershed program under ch.
7 NR 120.

8
9 DNR will continue to provide cost-share funding for projects in priority
10 watersheds established prior to July 1, 1998. But DNR will establish no
11 new priority watershed projects, and has established no new projects since
12 July 1, 1998. DNR will no longer provide funding for county and local
13 government staff engaged in the priority watershed program.

14
15 The department of agriculture, trade and consumer protection provides
16 grants to pay for county soil and water conservation staff. Under the
17 redesigned nonpoint source pollution abatement program, the department
18 will also fund county staff who undertake projects funded through s.
19 281.65, Stats., formerly DNR's priority watershed program. Funding for
20 county staff will be included in the department's annual staffing grants to
21 counties.

22
23 Within the limits of available funds, the department will attempt to ensure
24 continuity of staffing for priority watershed projects. See s. ATCP
25 50.32(5)(b). Staffing grants for priority watershed projects will be phased
26 out as those projects are completed. A schedule of priority watershed
27 completion dates is shown in *Appendix F*.

28
29 With the department's permission, a county may reallocate staff funds to
30 local governments or tribes within the county. See s. ATCP 50.32(1).

31
32 (b) The amount of funding requested for activities under par. (a), including staff
33 salaries and fringe benefits, contractor fees, training and eligible support costs.

34 **NOTE:** See s. ATCP 50.32 related to annual staffing grants. Contractor fees
35 include costs to hire independent contractors such as engineers, nutrient
36 management planners, computer specialists, information and education
37 specialists and other consultants who work for the county land
38 conservation committee but are not county employees.
39

1 (3) FUNDING FOR CONSERVATION PRACTICES. A county land conservation
2 committee may request funding for cost-share grants to install conservation practices.

3 The request shall include all of the following:

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

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

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

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

12 **NOTE:** Under s. 92.14(10), Stats., the department may award a grant to any
13 person (not just a county) for information, education, training and other
14 services related to the administration of this chapter. Grant applicants
15 must apply by April 15 of each year for funding in the next calendar year.
16 See s. ATCP 50.36.
17

18 **ATCP 50.28 Annual grant allocation plan.** (1) PLAN REQUIRED. The
19 department shall allocate grants under this chapter according to an annual grant allocation
20 plan. The secretary shall approve the grant allocation plan. The plan shall specify, for
21 the next calendar year, all of the following:

22 (a) The total amount available to the department for possible allocation under the
23 plan, including the subtotal amount from each of the following sources:

24 1. General purpose revenues appropriated under s. 20.115(7)(c), Stats.

25 2. Segregated fund revenues appropriated under s. 20.115(7)(qd), Stats.

26 3. Bond revenues appropriated under s. 20.866(2)(we), Stats.

1 4. Other legislative appropriations.

2 5. Gifts and grants accepted under s. 92.05(2)(a), Stats.

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

5 (c) The amounts allocated to counties for annual staffing grants under s. ATCP
6 50.32. This shall include all of the following:

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

9 2. The total amount allocated to each county, and the subtotal amount allocated to
10 that county from each relevant fund source under par. (a).

11 3. An explanation for the allocations, including any material differences in
12 allocations between counties.

13 **NOTE:** The department must prepare an environmental assessment on its annual
14 grant allocation plan, and may explain grant allocations in the
15 environmental assessment. See s. ATCP 3.02(1)(h).
16

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

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

21 2. The total amount allocated to each county, and the subtotal amount allocated to
22 that county from each relevant fund source under par. (a).

23 3. An explanation for the allocations, including any material differences in
24 allocations between counties.

25 **NOTE:** The department may explain its allocations in the environmental
26 assessment that accompanies the allocation plan. See s. ATCP 3.02(1)(h).

1
2 (e) The amount allocated to each non-county grant recipient under s. 92.14(10),
3 Stats., if any, and an explanation for each allocation. A person applying for a grant under
4 s. 92.14(10), Stats., shall file a written grant application by April 15 of the year preceding
5 the year for which the department awards the grant. The grant application shall include a
6 proposed budget and supporting documentation. The department may require a grant
7 applicant to apply on a form provided by the department.

8 **NOTE:** The department normally awards grants under this chapter only to
9 counties. But under s. 92.14(10), Stats., the department may also award
10 grants to other persons for information, education, training and other
11 services related to the administration of this chapter.
12

13 (2) PREPARING THE PLAN. (a) The department shall prepare an annual grant
14 allocation plan under sub. (1) for each calendar year. The department shall prepare the
15 plan with DNR after reviewing county grant applications under s. ATCP 50.26.

16 **NOTE:** The department and DNR must prepare a joint grant allocation plan
17 under ss. 92.14, 281.65 and 281.66, Stats. DATCP will prepare its portion
18 of the joint allocation plan according to this section. DATCP and DNR
19 will jointly submit their portions of the annual grant allocation plan to the
20 LWCB for its recommendations. The DATCP and DNR secretaries will
21 then approve their agencies' respective portions of the joint plan.
22 Although neither agency is legally empowered to veto or modify the other
23 agency's portion of the plan, the agencies will strive for agreement on the
24 joint plan.
25

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

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

30 **NOTE:** The department will normally provide a preliminary draft plan to DNR,
31 the LWCB and the county land conservation committees by August 1 of
32 the year preceding the calendar year to which the plan applies.
33

1 2. Obtain LWCB recommendations on the annual grant allocation plan, as
2 required under s. 92.14(6)(b) and (d), Stats. At least 30 days before the department
3 obtains the LWCB's final recommendations, the department shall provide to DNR, the
4 LWCB and every county land conservation committee a copy of the draft plan on which
5 the department seeks the LWCB's final recommendations.

6 **NOTE:** If the department makes material revisions to the preliminary draft plan
7 before seeking final LWCB recommendations, the department will re-
8 issue the revised draft at least 30 days before the LWCB makes its
9 recommendations.

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

17 (3) **INELIGIBLE COUNTIES.** The department may not award a county grant under
18 this chapter if any of the following apply:
19

20 (a) The county has failed to adopt a county land and water resource management
21 plan under s. ATCP 50.12(1), or lacks current department approval for that plan under s.
22 ATCP 50.12(5).

23 (b) The county has failed to submit an annual grant application required under s.
24 ATCP 50.26.

25 **NOTE:** The department may reduce or withhold funding to counties that fail to
26 file timely grant applications or reports, or fail to comply with other

1 requirements under this chapter. See ss. ATCP 50.18(2), 50.30(3) and
2 50.36(3).

3
4 (4) GRANT PRIORITIES. When preparing an annual grant allocation plan under
5 sub. (1), the department shall consider the grant priorities under s. ATCP 50.30.

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

9 1. Extend county funding for landowner cost-share contracts funded but not
10 completed in the preceding grant year, provided that the cost-share contracts were signed
11 by December 1 of the preceding grant year. Extensions shall comply with s. ATCP
12 50.34(6).

13 **NOTE:** The department will normally grant funding extensions under subd. 1.
14 by April 30 of each grant year, based on county extension requests filed by
15 December 31 of the preceding grant year. See s. ATCP 50.34(6). Staffing
16 grants may not be extended into the next calendar year.
17

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

21 3. Reduce a grant award to any county.

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

24 **NOTE:** The department will not prepare an environmental assessment on a plan
25 revision unless the revision materially alters the original environmental
26 assessment. The department will not ordinarily prepare an environmental
27 assessment on a plan revision consisting solely of contract funding
28 extensions under par. (a)1.
29

1 (b) The department shall do all of the following before it revises an annual grant
2 allocation plan under par. (a):

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

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

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

15
16 Stats.

17 (6) DISTRIBUTING GRANT FUNDS. The department shall enter into a grant contract
18 under s. ATP 50.36 with each grant recipient identified in the grant allocation plan. The
19 contract shall conform to the allocation plan signed by the secretary. The department
20 shall pay out grant funds according to this chapter and the grant contract.

21 **ATCP 50.30 Grant priorities.** When preparing an annual grant allocation plan
22 under s. ATP 50.28, the department shall consider all of the following:

23 (1) COUNTY PRIORITIES. The department shall give high priority to maintaining
24 county staff and project continuity. The department shall consider county priorities
25 identified in the county grant application under s. ATP 50.26 and in the county's
26 approved land and water resource management plan under s. ATP 50.12.

1 (2) STATEWIDE PRIORITIES. The department may give priority to county projects
2 that address statewide priorities identified by the department and DNR. These may
3 include:

4 (a) Farms that discharge pollutants to waters that DNR has listed pursuant to 33
5 USC 1313 and 40 CFR 130.7

6 **NOTE:** The list of waters under par. (a) is also known as the "303(d) list of
7 impaired waters." *Appendix A* contains a map showing watersheds that
8 drain to the listed waters.
9

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

11 (c) Farms discharging substantial pollution to waters of the state.

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

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

15 (a) A county's demonstrated commitment to implementing the approved land and
16 water resource management plan under s. ATCP 50.12, and the strength of the
17 documentation supporting that plan.

18 (b) A county's demonstrated commitment to implementing the farm conservation
19 practices required under s. ATCP 50.04.

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

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

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

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

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

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

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

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

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

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

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

14 (n) The county's annual financial contribution for soil and water resource
15 management programs, as last reported under s. ATCP 50.18(1)(c).

16 (o) Other factors relevant to the administration of this chapter.

17 **ATCP 50.32 Annual staffing grants to counties. (1) GENERAL.** The
18 department shall award an annual staffing grant to the county land conservation
19 committee in each eligible county. With the department's written permission, a county
20 conservation committee may reallocate staffing grant funds to another agency of the
21 county, or to a city, village, town, county drainage board, lake district or tribe operating
22 in the county.

1 **NOTE:** The department may award annual staffing grants from applicable
2 appropriations under s. 20.115(7), Stats. The department may not use
3 bond revenue funds for county staffing grants.
4

5 (2) GRANT CONTRACT. The department shall distribute an annual staffing grant
6 under sub. (1) according to an annual grant contract with the county. The contract shall
7 comply with s. ATCP 50.36 and shall include all of the following:

- 8 (a) The total grant amount under sub. (1).
- 9 (b) The subtotal amount allocated from each relevant fund source under s. ATCP
10 50.28(1)(a).
- 11 (c) Grant terms and conditions, including conditions required under this section.

12 **NOTE:** Grant contracts, including grant amounts and fund sources, must
13 conform to the grant allocation plan under s. ATCP 50.28. Bond revenues
14 may not be used for staffing grants.

15 (3) USE OF ANNUAL STAFFING GRANTS; GENERAL. A county may use an annual
16 staffing grant under sub. (1) in the year for which the grant is made. The county may use
17 the grant for any of the following purposes, subject to the terms of the grant contract:

- 18 (a) Employee salaries, employee fringe benefits and contractor fees for county
19 employees and independent contractors performing soil and water resource management
20 activities for the county land conservation committee.

21 **NOTE:** Soil and water resource management activities may include activities
22 under this chapter and the CREP program, activities related to "priority
23 watersheds" under ch. NR 120, and activities related to DNR notices of
24 discharge under ch. NR 243.

25 A county may contract with engineers, nutrient management planners,
26 computer specialists, information and education specialists, consultants
27 and other independent contractors to work on behalf of the county land
28 conservation committee. A county may use annual staffing grant funds to
29 pay for the services of these independent contractors.
30

- 31 (b) Training for county employees and land conservation committee members.
- 32
- 33

1 (c) County employee support costs under sub. (4).

2 (d) Landowner cost-share grants, to the extent authorized under sub. (11).

3 (4) STAFF SUPPORT COSTS. An annual staffing grant may pay for any of the
4 following county employee support costs identified in the grant application:

5 (a) Mileage expenses at the state rate. A staffing grant may not be used to lease
6 or purchase a vehicle.

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

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

10 (d) Costs for information and education materials, newsletters, office supplies,
11 maps and plats, photocopying, printing and postage. This does not include rent or capital
12 expenditures.

13 (e) Other staff support costs that the department identifies, in the grant
14 application form, as being reimbursable for all counties.

15 (5) GRANT AMOUNTS. (a) The department may award different grant amounts to
16 different counties under sub. (1), based on a consideration of factors identified in s.

17 ATCP 50.30.

18 **NOTE:** Subject to the availability of funds, the department will normally offer
19 each county at least the minimum staffing grant amount required in par.

20 (b). Additional staffing grant amounts, if any, may be based on the
21 county's annual financial contribution as last reported under s. ATCP
22 50.18(1)(c). But the department may also consider other factors under s.
23 ATCP 50.30. The department has legal discretion to adjust grant awards
24 from year to year, based on any of those factors.

25 (b) Subject to the availability of funds, the department shall annually offer to
26 each eligible county at least the greater of the following:
27

1 1. \$85,000.

2 2. The amount awarded to that county under the 2001 allocation plan for staffing
3 related to DNR priority watershed projects under NR 120, less any amounts awarded to
4 that county under the 2001 allocation plan for staffing related to priority watershed
5 projects that have subsequently closed.

6 **NOTE:** See *Appendix F* for scheduled closing dates of priority watershed
7 projects, determined as of October 6, 1998.
8

9 (6) GRANT PAYMENTS. (a) The department shall make grant payments under
10 sub. (1) on a reimbursement basis. The department shall pay reimbursement within 30
11 days after the county land conservation committee files a valid reimbursement request
12 under sub. (7). The department shall pay reimbursement, at the rate provided under sub.
13 (8), on reimbursable expenditures identified in the reimbursement request. Total
14 payments may not exceed the total grant award under sub. (1).

15 (b) The department may reimburse eligible costs that are incurred during the
16 grant year and paid by January 31 of the year following the grant year. The department
17 may not reimburse any costs incurred after December 31 of the grant year, or paid after
18 January 31 of the following year. Unspent funds remain with the department, for
19 distribution under a future annual allocation plan.

20 (c) If a county redirects the unused portion of an annual staffing grant for cost-
21 share payments to landowners, as provided in sub. (11), the department shall reimburse
22 county cost-share payments to landowners according to s. ATCP 50.34.

23 (7) REIMBURSEMENT REQUESTS. (a) To obtain a reimbursement payment under
24 sub. (6)(a), a county land conservation committee shall file a reimbursement request on a
25 form provided by the department. A county may file a reimbursement request on or after

1 June 1 for costs incurred before June 1. A county may file a second reimbursement
2 request for costs incurred on or after June 1. A county may file no more than 2
3 reimbursement requests, and shall file all reimbursement requests by February 15 of the
4 year following the grant year.

5 (b) The county's chief financial officer shall sign each reimbursement request.
6 The request shall certify that the county has fully paid the costs for which the county
7 seeks reimbursement, and that those costs are eligible for reimbursement under this
8 chapter and the grant contract.

9 (c) A reimbursement request shall specify the nature and amount of costs on
10 which the county seeks reimbursement. If the county seeks reimbursement of employee
11 salaries, employee fringe benefits or independent contractor fees, the request shall specify
12 all of the following for that employee or independent contractor:

13 1. The position number of the employee, or the contract number of the
14 independent contractor.

15 2. The total amount of salaries and fringe benefits, or the total amount of
16 contractor fees, on which the county seeks reimbursement.

17 3. Whether the employee or independent contractor is a first, second or
18 subsequent position for purposes of s. 92.14(3) and (5g), Stats.

19 4. The share of the employee or independent contractor costs that are attributable
20 to conservation activities in priority watersheds identified under ch. NR 120, regardless
21 of whether those activities are directly related to the DNR priority watershed program
22 under NR 120.

23 **NOTE:** Under s. 92.14(5g)(b), Stats., the department may pay a higher
24 reimbursement rate for "priority watershed staff" than for other staff. The

1 department has interpreted "priority watershed staff" to include any staff
2 engaged in conservation activities related to DNR priority watersheds (the
3 geographic areas), regardless of whether those staff are working on the
4 DNR priority watershed program. For example, staff working on the
5 CREP program in priority watersheds may be claimed as "priority
6 watershed staff."
7

8 5. The share of the employee or independent contractor costs that are attributable
9 to other land and water resource management activities.

10 (d) If a county reallocates grant funds to a local government or tribe under sub.
11 (1), the county shall submit reimbursement requests on behalf of that local government or
12 tribe. The county shall submit and certify each reimbursement request according to this
13 subsection, based on information that the local government or tribe certifies to the
14 county. The department may reimburse the local government or tribe based on a valid
15 county request under this paragraph.

16 **NOTE:** A county land conservation committee need not submit documentation
17 supporting its certification under sub. (7), but must keep that
18 documentation on file as required by sub. (9). The committee must make
19 the documentation available to the department and grant auditors upon
20 request.
21

22 (8) REIMBURSEMENT RATE. (a) The department shall reimburse eligible county
23 costs for employee salaries, employee fringe benefits and independent contractor fees at
24 the rate provided under s. 92.14, Stats.

25 (b) The department may reimburse eligible county employee training and support
26 costs at 100 percent.

27 (c) For the purpose of determining reimbursement rates under s. 92.14, Stats.:

28 1. A county may choose which employees or independent contractors are
29 considered the county's first, second and subsequent staff persons.

1 2. The department may reimburse eligible costs for the county's first designated
2 staff person at 100%, regardless of whether that person is a priority watershed staff
3 person.

4 3. Except as provided under subd. 2., the department may reimburse eligible
5 costs for priority watershed staff identified under sub. (7)(c)4. at the rate of 90%. This
6 reimbursement rate does not apply to staff working in a priority watershed after the
7 termination date specified as of October 6, 1998 for the DNR priority watershed project
8 in that watershed.

9 4. Except as provided under subd. 2. or 3., the department may reimburse eligible
10 staffing costs at the rate prescribed in s. 92.14(5g)(a), Stats.

11 (d) A county receiving an annual staffing grant under this chapter shall maintain
12 its annual soil and water resource management expenditures at or above the average
13 annual amount that the county expended in the years 1985 and 1986, as required by s.
14 92.14(7), Stats. A county may count, as part of its contributions under this paragraph,
15 county expenditures for employees and independent contractors who work for the county
16 land conservation committee. A county may not count capital improvement
17 expenditures, or the expenditure of grant revenues that the county receives from other
18 governmental entities.

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

1 (b) If a county reallocates grant funds to a local government or tribe, that local
2 government or tribe shall also keep records under par. (a).

3 (10) BOND REVENUES MAY NOT BE USED FOR COUNTY STAFFING. Bond revenue
4 funds may not be used for an annual staffing grant under sub. (1).

5 **NOTE:** Bond revenues are those appropriated under s. 20.866(2)(we), Stats. The
6 Wisconsin constitution limits the use of bond revenues.
7

8 (11) REDIRECTING STAFFING GRANTS FOR COST-SHARE PAYMENTS TO
9 LANDOWNERS. A county may redirect a portion of its annual staffing grant to fund cost-
10 share grants to landowners under s. ATCP 50.34 if all of the following apply:

11 (a) The department approves, in writing, the total staffing grant amount that the
12 county may redirect.

13 (b) The county uses the redirected funds in the year for which the funds are
14 allocated.

15 **NOTE:** The department will pay approved cost-share reimbursements according
16 to the procedure in s. ATCP 50.34.
17

18 **ATCP 50.34 Grants for conservation practices. (1) GENERAL.** The
19 department may award an annual grant to each eligible county to finance county cost-
20 share grants to landowners. The department shall award the grant to the county land
21 conservation committee. The committee may make cost-share grants to landowners for
22 conservation practices needed to comply with any of the following:

23 (a) Section ATCP 50.04.

24 (b) State or local regulations identified in the county's land and water resource
25 management plan under s. ATCP 50.12(2)(b). The committee may not use funds under

1 this chapter to award cost-share grants for practices needed to comply with a DNR notice
2 of intent or notice of discharge under s. 281.20 or ch. 283, Stats.

3 **NOTE:** DNR may provide cost-share funding for practices needed to comply
4 with a DNR notice of intent under s. 281.20 or notice of discharge under s.
5 283, Stats.
6

7 (c) Objectives identified in the county land and water resource management plan
8 under s. ATCP 50.12.

9 **NOTE:** The department may award grants under sub. (1) from applicable
10 appropriations under ss. 20.115(7), Stats., or from the bond revenue
11 appropriation under s. 20.866(2)(we), Stats. Bond revenue grants may
12 only be used for the purposes identified in sub. (4).
13

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

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

18 (b) The subtotal amount awarded from each relevant fund source under s. ATCP
19 50.28(1)(a).

20 **NOTE:** Grant contracts, including grant amounts, grant purposes and fund
21 sources, must conform to the grant allocation plan under s. ATCP 50.28.
22 Grant contracts may specify the use of funds, as necessary, to implement
23 the terms of the grant allocation plan. Bond revenues may only be used
24 for purposes identified in sub. (4).
25

26 (c) Project funding extensions under sub. (6), if any.

27 (d) Grant terms and conditions, including terms and conditions required under
28 this section.

29 (3) GRANT PAYMENTS. The department shall make grant payments under sub. (1)
30 on a reimbursement basis. The department shall reimburse the county after the county

31 certifies that the cost-shared practice has been properly installed and paid for. To obtain

1 reimbursement for a cost-shared practice, a county land conservation committee shall do
2 all of the following on forms provided by the department:

3 (a) File with the department a copy of the county's cost-share contract with the
4 landowner. The cost-share contract shall comply with s. ATCP 50.40(8) and (9).

5 **NOTE:** The department must approve any cost-share contract that exceeds
6 \$50,000.

7
8 (b) Certify the amount of reimbursement due.

9 (c) Certify, based on documentation possessed by the county, that all applicable
10 conditions in s. ATCP 50.40(10) to (12) and (14) are met.

11 **NOTE:** The department will provide forms that counties must use to certify the
12 information under sub. (3). A county land conservation committee need
13 not submit documentation supporting its certification under par. (c), but
14 must keep that documentation on file as required by sub. (7). The
15 committee must make the documentation available to the department and
16 grant auditors upon request.

17
18 (d) File all reimbursement requests by February 15 of the year following the
19 grant year.

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

22 1. To finance cost-shared practices identified in subch. VIII, except that bond
23 revenue funds may not be used to finance practices identified in s. ATCP 50.67, 50.68,
24 50.78, 50.79, 50.82 or 50.89.

25 2. To finance engineering services provided in connection with a cost-shared
26 practice for which bond revenues may be used under subd. 1.

27 **NOTE:** See s. ATCP 50.40(7).

1 (b) The department may not use bond revenue funds to reimburse a county for
2 services provided by county employees, or by independent contractors working for the
3 county.

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

10 (5) UNSPENT FUNDS. The department may not use grant funds awarded to a
11 county under sub. (1) to reimburse the county for costs that the county incurs after
12 December 31 of the grant year, or pays after January 31 of the following year. Unspent
13 funds remain with the department, for distribution under a future year's allocation plan.

14 (6) EXTENSIONS. (a) If a grant under sub. (1) funds a landowner cost-share
15 contract that is signed by December 1 of the grant year but not completed by December
16 31 of that year, the department may extend funding for that contract in the next year's
17 grant allocation to the county if all of the following apply:

18 1. The county properly contracts with the landowner by December 1 of the initial
19 grant year.

20 2. The landowner has not taken any action in violation of the cost-share contract.

21 3. The county land conservation committee files with the department, by
22 December 31 of the initial grant year, a written request and justification for the funding
23 extension.

24 4. The department has not previously extended funding for the same contract
25 from one grant year to another.
26

1 **NOTE:** The department will normally approve extensions by April 30 of each
2 year, as a supplement to the annual grant allocation plan for that year. See
3 s. ATCP 50.28(5).
4

5 (b) A county may not transfer a funding extension under par. (a) from one
6 landowner cost-share contract to another. Extended funding, if not spent for the
7 designated cost-share contract in the year of the extension, remains with the department
8 for distribution under a future year's allocation plan.

9 **NOTE:** A county may make partial payments for completed portions of a cost-
10 shared practice, as provided in s. ATCP 50.40(12).
11

12 (7) COUNTY RECORDS. (a) A county land conservation committee shall keep all
13 of the following records related to grants under sub. (1):

- 14 1. Copies of all county cost-share contracts with landowners, including any
15 provisions related to operation and maintenance of installed practices.
- 16 2. Documentary proof of all information that the county land conservation
17 committee certifies to the department under this section.
- 18 3. Documentation of all county receipts and payments under this section.
- 19 4. Other records needed to document county compliance with this section and the
20 grant contract.

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

26 **ATCP 50.36 Grant contracts.** (1) COUNTY GRANT CONTRACTS. The
27 department shall enter into an annual grant contract with a county land conservation

1 committee for the payment of grant funds awarded to the county. The contract shall
2 include relevant terms required under this section and ss. ATCP 50.32 and 50.34.

3 (2) OTHER GRANT CONTRACTS. (a) The department shall enter into a grant
4 contract with every non-county grant recipient under this chapter.

5 **NOTE:** See s. ATCP 50.28(1)(e). The department normally awards grants under
6 this chapter only to counties. But under s. 92.14(10), Stats., the
7 department may also award grants to other persons for information,
8 education, training and other services related to the administration of this
9 chapter.

10
11 (b) A grant contract under par. (a) shall conform to the grant allocation plan
12 under s. ATCP 50.28. The contract shall specify grant terms and conditions, including
13 terms required under this chapter. The contract shall specify the products and services
14 that the grant recipient is expected to deliver.

15 (3) BREACH OF CONTRACT. The department may withhold or demand return of
16 grant payments if the department finds that the grant recipient has violated this chapter or
17 breached its grant contract with the department.

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

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

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SUBCHAPTER V

COST-SHARE GRANTS TO LANDOWNERS

ATCP 50.40 Cost-share grants to landowners

ATCP 50.42 Maximum cost-share rates

ATCP 50.40 Cost-share grants to landowners. (1) GENERAL. (a) A county land conservation committee may use grant funds awarded to the county under s. ATCP 50.34 to make cost-share grants to landowners for any of the purposes authorized under s. ATCP 50.34(1). Cost-share grants shall comply with this subchapter.

NOTE: This subchapter regulates a county's use of grant funds awarded under s. ATCP 50.34. It does not limit a county's authority to acquire and distribute cost-share grant funds from other governmental or private entities.

The department and DNR will prepare a joint allocation plan for the allocation of funds to counties under ss. 92.14, 281.65 and 281.66, Stats. Funding under this chapter is primarily aimed at rural conservation practices. DNR may provide funding for urban conservation practices that are not financed under this chapter.

(b) A county land conservation committee may determine all the following, subject to this chapter:

1. The landowners who will receive cost-share grants.
2. The conservation practices that will be cost-shared.
3. The costs, for each conservation practice, that will be shared.
4. The rate at which costs will be shared.

NOTE: If a county *requires* a landowner to change an "existing" agricultural practice, the county must comply with minimum cost-share requirements under sub. (2). But if a county enters into a *voluntary* cost-share arrangement with a landowner, the county is free to negotiate the grant amount with the landowner (up to the *maximum* amounts provided in s. ATCP 50.42).

1 (2) COST-SHARING REQUIRED. (a) A county may not do any of the following,
2 under this chapter or a local regulation, unless the county land conservation committee
3 first offers cost-sharing that is at least equal to the cost-sharing required under s. ATCP
4 50.08:

5 1. Require a conservation practice that discontinues or modifies cropping
6 practices on existing cropland. In this paragraph, "existing cropland" has the meaning
7 given in NR 151.09(4)(b).

8 2. Require a conservation practice that discontinues or modifies an existing
9 livestock facility or operation. In this paragraph, "existing livestock facility or operation"
10 has the meaning given in NR 151.095(5)(b).

11 (b) Paragraph (a) does not apply to a nutrient management plan required under a
12 permit for a manure storage system voluntarily constructed by a landowner.

13 (c) Paragraph (a) does not limit any of the following:

14 1. An emergency or interim response to a pollution discharge, to prevent or
15 mitigate imminent harm to waters of the state.

16 2. County action under s. ATCP 50.16(6) to suspend a landowner's eligibility for
17 farmland preservation tax credits, if the landowner fails to comply with conservation
18 standards under s. ATCP 50.16(1).

19 3. The enforcement of an existing cost-share contract.

20 (3) COST-SHARED PRACTICES. (a) A cost-share grant may fund conservation
21 practices identified under subch. VIII, or other conservation practices that the department
22 approves in writing, regardless of whether those conservation practices are required or
23 voluntary.

1 **NOTE:** A county may package cost-share payments in a variety of ways. For
2 example, a county might choose to negotiate a single overall payment
3 (sometimes called an “incentive” payment) with a landowner who
4 voluntarily agrees to maintain a combination of “soft” practices (nutrient
5 management, residue management and contour farming, for example) as
6 part of an overall farm conservation plan. The county may pay the
7 landowner to *continue* these practices, even though the landowner has
8 followed the same practices in the past. The county is free to negotiate the
9 cost-share amount (“incentive” payment amount) with the landowner, as
10 long as the arrangement is voluntary.
11

12 (b) A cost-share grant may not be used to do any of the following, except as
13 specifically authorized under subch. VIII:

14 1. Pay for the installation of a conservation practice if that installation occurred
15 before the landowner entered into the cost-share contract.

16 2. Correct overtopping of a manure storage facility.

17 3. Move a manure stack.

18 4. Drain wetlands, as defined in s. 23.32, Stats.

19 5. Increase drainage of land.

20 6. Dredge a harbor, lake, river or drainage ditch.

21 7. Prevent or clean up spills of pesticides, fertilizers or other agricultural
22 chemicals from commercial bulk storage facilities.

23 8. Grow or harvest trees.

24 9. Install, operate or repair a septic system.

25 10. Install or modify a flood control structure.

26 11. Destroy significant wildlife habitat, unless the landowner agrees to restore the
27 habitat at the landowner’s expense.

28 (4) **ELIGIBLE COSTS.** A cost-share grant may pay for relevant costs identified in s.
29 ATCP 50.08(3) and (4), regardless of whether cost-sharing is required under sub. (2) or s.

1 ATCP 50.08. A cost-share grant may not pay for ineligible costs identified under sub.
2 (3)(b) or subch. VIII.

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

- 6 (a) The predicted conservation benefits of the practice.
- 7 (b) The minimum practice needed to achieve the conservation objective.
- 8 (c) The cost of the practice compared to feasible and effective alternatives.
- 9 (d) The practical effects of the practice on the agricultural operation.

10 (6) MAXIMUM COST-SHARE RATES AND AMOUNTS. Cost-share rates and amounts
11 may not exceed the maximum rates and amounts specified in s. ATCP 50.42.

12 (7) ENGINEERING SERVICES. (a) A cost-share grant may include funding for
13 engineering services needed to do any of the following:

- 14 1. Design a cost-shared practice.
- 15 2. Supervise the installation of a cost-shared practice.
- 16 3. Certify that a cost-shared practice has been properly installed.

17 (b) A cost-share grant may reimburse the cost of engineering services under par.
18 (a) provided by a professional engineer registered under ch. 443, Stats., or an agricultural
19 engineering practitioner certified at the applicable rating under s. ATCP 50.46. A cost-
20 share grant may not reimburse the cost of engineering services provided by the county
21 land conservation committee or its agent.

22 (c) Funding for engineering services under par. (a) may not exceed the lesser of
23 the following: