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

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

(3) Inspect and copy relevant county records.

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

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

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

11
12 The department of agriculture, trade and consumer protection provides
13 grants to pay for county soil and water conservation staff. Under the
14 redesigned nonpoint source pollution abatement program, the department
15 will also fund county staff who undertake projects funded through s.
16 281.65, Stats., formerly DNR's priority watershed program. Funding for
17 county staff will be added to, and included in, the department's annual
18 staffing grants to counties.

19
20 Within the limits of available funds, the department will attempt to ensure
21 continuity of staffing for priority watershed projects. Staffing grants for
22 priority watershed projects will be phased out as those projects are
23 completed. A schedule of priority watershed completion dates is shown in
24 *Appendix F*.

25
26 With the department's permission, a county may reallocate staff funds to
27 local units of government within the county. See s. ATCP 50.32(1).

28
29 (b) The amount of funding requested for activities under par. (a), including staff
30 salaries and fringe benefits, contractor fees, training and eligible support costs.

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

36
37 (3) FUNDING FOR CONSERVATION PRACTICES. A county land conservation
38 committee may request funding for cost-share grants to install conservation practices.

39 The request shall include all of the following:

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

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

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

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

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

14
15 **ATCP 50.28 Annual grant allocation plan. (1) PLAN REQUIRED.** The
16 department shall allocate grants under this chapter according to an annual grant allocation
17 plan. The secretary shall approve the grant allocation plan. The plan shall specify, for
18 the next calendar year, all of the following:

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

- 21 1. General purpose revenues appropriated under s. 20.115(7)(c), Stats.
- 22 2. Segregated fund revenues appropriated under s. 20.115(7)(qd), Stats.
- 23 3. Bond revenues appropriated under s. 20.866(2)(we), Stats.
- 24 4. Other legislative appropriations.
- 25 5. Gifts and grants accepted under s. 92.05(2)(a), Stats.

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

3 (c) The amounts allocated to counties for annual staffing grants under s. ATCP
4 50.32. This shall include all of the following:

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

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

9 3. An explanation for the allocations, including any material differences in
10 allocations between counties.

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

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

16 17 1. The total amount allocated to counties under s. ATCP 50.34, and the subtotal
18 amount allocated from each relevant fund source under par. (a).

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

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

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

25 (e) The amount allocated to each non-county grant recipient under s. 92.14(10),
26 Stats., if any, and an explanation for each allocation. A person applying for a grant under
27

1 s. 92.14(10), Stats., shall file a written grant application by April 15 of the year preceding
2 the year for which the department awards the grant. The grant application shall include a
3 proposed budget and supporting documentation. The department may require a grant
4 applicant to apply on a form provided by the department.

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

9
10 (2) PREPARING THE PLAN. (a) The department shall prepare an annual grant
11 allocation plan under sub. (1) for each calendar year. The department shall prepare the
12 plan in consultation with DNR after reviewing county grant applications under s. ATCP
13 50.26.

14 **NOTE:** The department and DNR must prepare a joint grant allocation plan
15 under ss. 92.14, 281.65 and 281.66, Stats. DATCP will prepare its portion
16 of the joint allocation plan according to this section.

17
18 (b) The department shall do all of the following before the department adopts an
19 annual grant allocation plan:

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

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

25
26 2. Obtain LWCB recommendations on the annual grant allocation plan, as
27 required under s. 92.14(6)(b) and (d), Stats.

28 (c) The department shall adopt an annual grant allocation plan by December 31
29 of the year preceding the calendar year to which the plan applies. The final plan may
30 include changes recommended by the LWCB, as well as updated estimates of project

1 costs. The department shall provide copies of the allocation plan to DNR, the LWCB and
2 every county land conservation committee. The department shall report to the LWCB
3 any changes that the department makes to the allocation plan recommended by the
4 LWCB.

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

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

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

12 **NOTE:** The department may reduce or withhold funding to counties that fail to
13 file timely grant applications or reports, or fail to comply with other
14 requirements under this chapter. See ss. ATCP 50.18(2), 50.30(3) and
15 50.36.

16
17 (4) GRANT PRIORITIES. When preparing an annual grant allocation plan under
18 sub. (1), the department shall consider the grant priorities under s. ATCP 50.30.

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

22 1. Extend county funding for landowner cost-share contracts funded but not
23 completed in the preceding grant year, provided that the cost-share contracts were signed
24 by December 1 of the preceding grant year. Extensions shall comply with s. ATCP
25 50.34(6).

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

5
6 2. Increase the total grant to any county. The department shall give all counties
7 notice and equal opportunity to compete for funding increases other than extensions
8 under subd. 1.

9 3. Reduce a grant award to any county.

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

12 **NOTE:** The department will not prepare an environmental assessment on a plan
13 revision unless the revision materially alters the original environmental
14 assessment. The department will not ordinarily prepare an environmental
15 assessment on a plan revision consisting solely of contract funding
16 extensions under par. (a)1.

17
18 (b) The department shall do all of the following before it revises an annual grant
19 allocation plan under par. (a):

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

23 **NOTE:** For funding extensions under par. (a)1., the department's notice will
24 indicate the total number and dollar value of extensions requested and
25 granted, by county and for the state as a whole. If the department plans to
26 deny any extension requests, the department will explain why. The
27 department will keep a record identifying each uncompleted landowner
28 contract for which funding is extended, and the amount of funding
29 extended for each specified contract, but will not publish that record with
30 its notice.

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

32
33 Stats.

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

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

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

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

14 (a) Farms that discharge pollutants to waters that DNR has listed pursuant to 33 USC
15 1313(d)(1)(A). — *Desk*

16 **NOTE:** The list of waters under par. (a) is also known as the "303(d) list of
17 impaired waters." *Appendix A* contains a map showing watersheds that
18 drain to the listed waters.
19

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 **ATCP 50.32 Annual staffing grants to counties.** (1) ELIGIBLE COUNTIES. The
5 department shall award an annual staffing grant to the county land conservation
6 committee in each eligible county. With the department's written permission, a county
7 conservation committee may reallocate grant funds to another agency of the county, or to
8 a city, village, town, county drainage board, lake district or tribe operating in the county.

9 **NOTE:** The department may award annual staffing grants from the
10 appropriations under s. 20.115(7)(c) or (qd), Stats. The department may
11 not use bond revenue funds for county staffing grants.
12

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

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

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

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

20 **NOTE:** Grant contracts, including grant amounts and fund sources, must
21 conform to the grant allocation plan under s. ATCP 50.28. Bond revenues
22 may not be used for staffing grants.
23

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

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

4 **NOTE:** Soil and water resource management activities may include activities
5 under this chapter, activities related to "priority watersheds" under ch. NR
6 120, and activities related to DNR notices of discharge under ch. NR 243.

7
8 A county may contract with engineers, nutrient management planners,
9 computer specialists, information and education specialists, consultants
10 and other independent contractors to work on behalf of the county land
11 conservation committee. A county may use annual staffing grant funds to
12 pay for the services of these independent contractors.
13

14 (b) Training for county employees and land conservation committee members.

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

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

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

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

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

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

24 (d) Other staff support costs that the department identifies, in the grant
25 application form, as being reimbursable for all counties.

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

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

2 (b) Subject to the availability of funds, the department shall award at least
3 \$50,000 under sub. (1) to every eligible county.

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

10 (b) The department may reimburse eligible costs incurred during the grant year,
11 and paid by January 31 of the year following the grant year. The department may not
12 reimburse any costs incurred after December 31 of the grant year, or paid after January
13 31 of the following year. Unspent funds remain with the department, for distribution
14 under a future annual allocation plan.

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

18 (7) REIMBURSEMENT REQUESTS. (a) To obtain a reimbursement payment under
19 sub. (6)(a), a county land conservation committee shall file a reimbursement request on a
20 form provided by the department. A county may file a reimbursement request on or after
21 July 1 for costs incurred before July 1. A county may file a second reimbursement
22 request for costs incurred on or after July 1. A county may file no more than 2

1 reimbursement requests, and shall file all reimbursement requests by April 15 of the year
2 following the grant year.

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

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

11 1. The position number of the employee, or the contract number of the
12 independent contractor.

*Also contract
or contractor!*

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

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

17 4. The share of the employee or independent contractor costs that are attributable
18 to priority watershed activities under ch. NR 120.

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

21 (d) If a county reallocates grant funds to another governmental unit under sub.
22 (1), the county shall submit reimbursement requests on behalf of that governmental unit.
23 The county shall submit and certify each reimbursement request according to this

1 subsection, based on information that the other governmental unit certifies to the county.
2 The department may reimburse the other governmental unit based on a valid county
3 request under this paragraph.

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

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

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

15 (c) For the purpose of determining reimbursement rates under s. 92.14, Stats., the
16 county may choose which employees or independent contractors are considered the
17 county's first, second and subsequent staff persons. A county shall designate employees
18 or independent contractors as priority watershed staff to the extent that they are engaged
19 in priority watershed activities under ch. NR 120.

20 (d) A county receiving an annual staffing grant under this chapter shall maintain
21 its annual soil and water resource management expenditures at or above the average
22 annual amount that the county expended in the years 1985 and 1986, as required by s.

ASA 23 92.14(7), Stats. A county may count, as part of its contributions under this paragraph,
24 county expenditures for employees and independent contractors who work for the county
25 land conservation committee. A county may not count capital improvement

1 expenditures, or the expenditure of grant revenues that the county receives from other
2 governmental sources.

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

7 (b) If a county reallocates grant funds to another governmental unit under sub.
8 (1), that governmental unit shall also keep records under par. (a).

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

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

13
14 (11) REDIRECTING STAFFING GRANTS FOR COST-SHARE PAYMENTS TO
15 LANDOWNERS. A grant allocation plan under s. ATCP 50.28 may authorize a county to
16 redirect a portion of its annual staffing grant to fund cost-share grants to landowners
17 under s. ATCP 50.34 if all of the following apply:

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

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

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

24
25 **ATCP 50.34 Grants for conservation practices. (1) GENERAL.** The
26 department may award an annual grant to each eligible county to finance county cost-

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

4 (a) Section ATCP 50.04.

5 (b) State or local regulations that are consistent with s. ATCP 50.04. The
6 committee may not use funds under this chapter to award cost-share grants for practices
7 needed to comply with a DNR notice of intent or notice of discharge under s. 281.20 or
8 ch. 283, Stats.

9 **NOTE:** DNR may provide cost-share funding for practices needed to comply
10 with a DNR notice of intent under s. 281.20 or notice of discharge under s.
11 283, Stats.

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

14 **NOTE:** The department may award grants under sub. (1) from the appropriations
15 under ss. 20.115(7)(c), (gb) and (qd), Stats., or from the bond revenue
16 appropriation under s. 20.866(2)(we), Stats. Bond revenue grants may
17 only be used for the purposes identified in sub. (4).
18

19 (2) GRANT CONTRACT. The department shall make grant payments under sub. (1)
20 according to an annual grant contract with the county. The contract shall comply with s.
21 ATCP 50.36, and shall include all of the following:
22

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

24 (b) The subtotal amount awarded from each relevant fund source under s. ATCP
25 50.28(1)(a).

26 **NOTE:** Grant contracts, including grant amounts, grant purposes and fund
27 sources, must conform to the grant allocation plan under s. ATCP 50.28.
28 Grant contracts may specify the use of funds, as necessary, to implement
29 the terms of the grant allocation plan. Bond revenues may only be used
30 for certain purposes identified in the contract. See sub. (4).

1
2 (c) Project funding extensions under sub. (6), if any.

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

5 (3) GRANT PAYMENTS. The department shall make grant payments under sub. (1)
6 on a reimbursement basis. The department shall reimburse the county after the county
7 certifies that the cost-shared practice has been properly installed and paid for. To obtain
8 reimbursement for a cost-shared practice, a county land conservation committee shall do
9 all of the following, on forms provided by the department:

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

12 **NOTE:** The department must be a party to any cost-share contract that exceeds
13 \$50,000.

14
15 (b) Certify the amount of reimbursement due.

16 (c) Certify, based on documentation possessed by the county, that all applicable
17 conditions in s. ATCP 50.40(9) to (11) and (13) are met.

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

24 (4) USE OF BOND REVENUES. (a) Bond revenue funds awarded under sub. (1)
25
26 may be used for the following purposes, subject to par. (b) and the grant contract:

27 1. To finance cost-shared practices identified in subch. VIII, except that bond
28 revenue funds may not be used to finance practices identified in s. ATCP 50.67, 50.68,
29 50.78, 50.79, 50.80, 50.82 or 50.89.

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

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

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

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

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

18 (6) **EXTENSIONS.** (a) If a grant under sub. (1) funds a landowner cost-share
19 contract that is signed by December 1 of the grant year but not completed by December
20 31 of that year, the department may extend funding for that contract in the next year's
21 grant allocation to the county if all of the following apply:

22 1. The county properly contracts with the landowner by December 1 of the initial
23 grant year.

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

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

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

3 **NOTE:** The department will normally approve extensions by April 30 of each
4 year, as a supplement to the annual grant allocation plan for that year. See
5 s. ATCP 50.28(5).
6

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

11 **NOTE:** A county may make partial payments for completed portions of a cost-
12 shared practice, as provided in s. ATCP 50.40(11).
13

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

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

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

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

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

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

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

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

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

12 (b) A grant contract under par. (a) shall conform to the grant allocation plan
13 under s. ATCP 50.28. The contract shall specify grant terms and conditions, including
14 terms required under this chapter. The contract shall specify the products and services
15 that the grant recipient is expected to deliver.
16

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

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

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

1 practices. DNR may provide funding for urban conservation practices that
2 are not financed under this chapter.

3
4 (3) COST-SHARED PRACTICES. (a) A cost-share grant may finance conservation
5 practices identified under subch. VIII, or other conservation practices that the department
6 approves in writing. A cost-share grant may pay a share of the landowner's cost to do
7 any of the following:

8 1. Install the cost-shared practice. This may include costs identified in subch.
9 VIII, and costs for engineering services under sub. (6).

10 2. Maintain the cost-shared practice for the number of years specified in the cost-
11 shared contract. This may include the cost to keep land out of agricultural production, as
12 provided in sub. (17).

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

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

17 2. Correct overtopping of a manure storage facility.

18 3. Move a manure stack.

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

20 5. Increase drainage of land.

21 6. Implement practices routinely used to grow crops or feed livestock.

22 7. Dredge a harbor, lake, river or drainage ditch.

23 8. Prevent or clean up spills of pesticides, fertilizers or other agricultural
24 chemicals from commercial bulk storage facilities.

25 9. Grow or harvest trees.

- 1 10. Install, operate or repair a septic system.
- 2 11. Install or modify a flood control structure.
- 3 12. Destroy significant wildlife habitat, unless the landowner agrees to restore the
- 4 habitat at the landowner's expense.

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

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

12 (5) COST-SHARE RATES. Cost-share rates may not exceed the maximum rates
13 specified in s. ATPC 50.42.

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

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

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

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

- 3 1. 70% of the actual cost of the engineering services.
- 4 2. 15% of the total eligible cost of the cost-shared practice, exclusive of
5 engineering costs, determined according to sub. (15).

6 (7) COST-SHARE CONTRACT. A county land conservation committee shall enter
7 into a written contract with every landowner to whom the committee awards a cost-share
8 grant. If the total amount of the cost-share contract may exceed \$50,000, the contract
9 shall be a 3-party contract signed by the landowner, the county land conservation
10 committee and the department.

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

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

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

19 50.46(2).

20 (e) The total estimated cost of the cost-shared practice, determined according to
21 sub. (15). The total cost shall include the cost to install the practice and the cost to
22 maintain the practice for the period of time specified in the contract.

1 (f) The cost-share rate. The cost-share rate shall not exceed the rate allowed
2 under s. ATCP 50.42.

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

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

6 (i) Applicable conditions required under this section.

7 (j) The period of time for which the landowner agrees to maintain the cost-shared
8 practice in return for the cost-share grant. The landowner shall agree to maintain the
9 cost-shared practice for at least the period of time required under subch. VIII, or replace
10 it with an equally effective practice. The landowner shall refrain, during the maintenance
11 period, from any action that may reduce the effectiveness of the cost-shared practice.

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

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

18 **NOTE:** Subsection (13) requires the county or landowner to record, with the
19 county register of deeds, any cost-share contract over \$25,000. The
20 county may include, in the cost-share contract, a provision requiring the
21 landowner to record the cost-share contract with the register of deeds.
22

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

*will contract meet recording
requirements of 704.05?
will it be in paper form to
be recorded in the ?*

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

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

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

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

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

13 (b) Installed in compliance with applicable construction site erosion control
14 standards contained in the DNR Wisconsin construction site best management practice

also:
15 handbook, DNR Pub. WR-222 (April 1994).

16 **NOTE:** Copies of the DNR construction site best management practice handbook
17 are on file at the department, DNR, the secretary of state and the revisor of
18 statutes. You may purchase copies from the Wisconsin department of
19 administration, division of document sales.

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

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

26 (b) That the cost-shared practice is designed and installed according to sub. (9).

27 If the cost-shared practice is an agricultural engineering practice identified under s.

1 ATCP 50.46(2), one of the following shall certify in writing that the practice complies
2 with sub. (9):

3 1. A professional engineer registered under ch. 443, Stats.

4 2. An agricultural engineering practitioner certified under s. ATCP 50.46.

5 (c) If the cost-shared practice includes a nutrient management plan, that the plan
6 complies with s. ATCP 50.04(3).

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

10 (a) The committee documents, for that completed portion, the information
11 required under 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
14 grant in partial payments.

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

18 (a) Make cost-share payments by multi-party check payable to the landowner and
19 any contractors who designed or installed a cost-shared practice for the landowner, if the
20 landowner or any of the contractors asks the committee to do so.

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

1 (13) CONTRACTS OVER \$50,000. (a) If a county cost-share contract with a
2 landowner exceeds \$50,000, the department shall also sign the contract. The contract is
3 not valid until signed by the department.

4 (b) If a county contract with a landowner exceeds \$25,000, the county or the
5 landowner shall record the contract with the county register of deeds before the county
6 makes any cost-share payment to the landowner.

7 (14) LANDOWNER INSTALLATION AND MAINTENANCE. (a) With the approval of
8 the county land conservation committee, a landowner may personally install a cost-shared
9 practice. The committee may give its approval if all of the following apply:

10 1. The landowner is competent to install the practice.

11 2. The landowner can install the practice at least as cheaply as other available
12 contractors.

13 3. The landowner submits a qualified bid if the committee requires bidding under
14 sub. (15)(b).

15 (b) If the value of a landowner's installation or maintenance service is considered
16 for cost-sharing purposes, the landowner shall submit a detailed invoice or cost-estimate
17 for those services.

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

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

23 **NOTE:** A committee may estimate typical costs per completed practice, or per
24 unit of labor or materials. A committee may use its own experience, or

1 information obtained from the department or other sources, to estimate
2 typical costs.

3
4 (b) The committee may require competitive bidding, and may determine a cost-
5 share grant amount based on low bid cost, regardless of whether the contracting
6 landowner selects the low bidder. The committee may specify bidding procedures that it
7 considers appropriate. The committee shall require competitive bidding if the cost-share
8 contract may exceed \$25,000.

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

- 10
- 11 • The committee must show the proposed construction site to all
 - 12 prospective bidders on the same day and at the same time.
 - 13 • There must be at least 3 qualified bids.
 - 14 • All bids must be sealed and delivered by a bid deadline to a location
 - 15 specified by the committee.
 - 16 • Bids must all be opened at the same time within 2 weeks after the bid
 - 17 deadline.
 - 18 • The amount of the cost-share grant is based on the lowest qualified
 - 19 bid.
 - 20 • The landowner may select a higher bidding contractor only if the
 - 21 landowner agrees to pay the difference.
 - 22 • The landowner may not select a contractor who did not bid.
- 23

24 (c) The committee may use its own employees or agents, to design, construct or
25 install a cost-shared practice if, by doing so, it can minimize public costs related to the
26 practice. If a county reallocates grant funds to a city, village, town, county drainage
27 board, lake district or tribe with the department's approval, that governmental unit may
28 use its employees or agents in the same manner.

29 **NOTE:** A governmental unit may contract with the Wisconsin conservation
30 corps or any other entity to install a cost-shared practice as the agent of the
31 governmental unit.

32
33 (16) COMBINED GRANTS. Cost-share grants under this chapter may be combined
34 with grants from other federal, state, local and private sources. Department funds

1 allocated under this chapter may be combined with DNR funds allocated under s. 281.65
2 or 281.66, Stats., to finance up to 70% of the total cost of a project, or up to 90% in cases
3 of economic hardship. This subsection does not limit the use of cost-share funds from
4 other sources. A cost-share grant under this chapter may not reimburse a landowner for
5 any costs that another governmental unit is also reimbursing.

6 **NOTE:** A landowner may receive grants from 2 or more governmental units
7 related to the same project, provided that the landowner does not receive
8 duplicate reimbursement of the same costs.
9

10 (17) COST OF REMOVING LAND FROM AGRICULTURAL PRODUCTION. (a) A cost-
11 share grant may reimburse a landowner for a share of the landowner's cost to take land
12 out of agricultural production in order to implement a conservation practice.

13 (b) A landowner's cost under par. (a) is the sum of the annual costs that the
14 landowner is projected to incur, over the maintenance period specified in the cost-share
15 contract, by keeping the land out of agricultural production. The landowner's projected
16 annual cost, for each year of the maintenance term, is the greater of the following:

- 17 1. The number of affected acres multiplied by the per-acre weighted average soil
18 rental rate in the county on the date of the cost-share contract.
- 19 2. The annual value of payments that would be offered under the combined state-
20 federal conservation reserve enhancement program (CREP) if the affected lands were
21 enrolled in that program, whether or not the lands are actually eligible for that program.

22 **NOTE:** The United States department of agriculture, farm service agency, has
23 determined the weighted average soil rental rate for each county, on form
24 CRP-2 (dated 09-14-99). See s. ATCP 50.01
25

26 (c) As a condition to providing cost-share payments under par. (a), a county land
27 conservation committee may require the landowner to grant the county an easement on

(35) ← definitions which sub.?

1 the land taken out of production. The committee shall record the easement with the
2 county register of deeds.

3 (18) CONFLICT OF INTEREST PROHIBITED. No county employee or land
4 conservation committee member may:

5 (a) Take any official action substantially affecting a matter which the individual,
6 a member of his or her immediate family, or an organization with which the individual is
7 associated has a substantial financial interest.

8 (b) Use his or her office or position in a way that produces or assists in the
9 production of substantial benefit, direct or indirect, for the individual, one or more
10 members of the individual's immediate family either separately or together, or an
11 organization with which the individual is associated.

12 **ATCP 50.42 Maximum cost-share rates.** (1) GENERAL. (a) A county land
13 conservation committee may determine cost-share rates, subject to s. ATCP 50.08 and
14 this section.

15 (b) Cost-share grants funded under this chapter may not exceed the maximum
16 rates specified under this section.

17 (c) A county land conservation committee shall determine the cost of a
18 conservation practice according to s. ATCP 50.08(2), s. 50.40, and subch. VIII, and shall
19 apply the applicable cost-share rate to that cost.

20 **NOTE:** A county land conservation committee may not *require* a landowner to
21 implement conservation practices unless the cost-sharing requirements
22 under s. ATCP 50.08 are met.

23
24 (2) MAXIMUM COST-SHARE RATE. (a) Except as provided under pars. (b) to (d),
25 cost-share payments funded under this chapter may not exceed 70% of the cost of the

1 conservation practice. This paragraph does not limit the use of cost-share funds from
2 other sources.

3 (b) The maximum cost-share rate is 90% if the county land conservation
4 committee makes an economic hardship finding under sub. (5).

5 (c) For cropping practices identified in sub. (3), a county land conservation
6 committee may pay the cost-share rate provided under this subsection or the cost-share
7 amount in sub. (3), whichever is higher.

8 (d) A county land conservation may provide cost-share funds, at the rate provided
9 under this subsection, to replace a cost-shared conservation practice that is damaged or
10 destroyed by natural causes beyond the control of the landowner.

11 **NOTE:** See s. ATCP 50.08 and s. 92.14(6)(gm), Stats.

12 (3) CROPPING PRACTICES; MAXIMUM COST-SHARE AMOUNTS. Cost-share
13 payments for the installation of the following cropping practices may not exceed the
14 following amounts, except as provided in sub. (2)(b):

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

16 (b) For cover and green manure crop, \$25 per acre.

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

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

19 (e) For high residue management systems, no-till systems, ridge till systems and
20 mulch till systems, \$18.50 per acre.

21 (f) For riparian buffers, \$100 per acre.

22 (g) For nutrient management and pesticide management, \$7.00 per acre.

1 **NOTE:** The county may also pay the landowner an additional amount to
2 maintain the practice for a maintenance period specified in the cost-share
3 agreement.

4
5 (4) **MAXIMUM GRANT TO RELOCATE ANIMAL FEEDING OPERATION.** No cost-share
6 grant to relocate an animal feeding operation may exceed 70% of the estimated cost to
7 install a manure management system or related practices needed to resolve or prevent
8 water quality problems at the abandoned site, or 70% of the eligible relocation costs at
9 the new site, whichever site cost is less. Not more than \$5,000 of the cost-share grant
10 may be used to transport livestock from the abandoned site to the new site.

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

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

17 (b) The landowner has inadequate cash flow to make the cost-share contribution
18 normally required of a landowner under sub. (2), as verified by a compilation of financial
19 conditions prepared by a certified public accountant or an accredited financial institution.

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

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

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.
- 23 (u) Streambank or shoreline protection.

- 1 (v) Subsurface drain.
- 2 (w) Surface drain; field ditch, main or lateral.
- 3 (x) Terrace.
- 4 (y) Trough or tank.
- 5 (z) Underground outlet.
- 6 (za) (aa) Waste or manure management system.
- 7 (zb) (bb) Waste or manure storage facility.
- 8 (cc) Waste or manure transfer system.
- 9 (dd) Water and sediment control basin.
- 10 (ee) Water control structure.
- 11 (ff) Well decommissioning.
- 12 (gg) Wet detention basin.
- 13 (hh) Wetland development or restoration.

14 (3) AGRICULTURAL ENGINEERING PRACTITIONER; CERTIFICATION. A person who
15 wishes to be certified as an agricultural engineering practitioner shall apply to the
16 department or a county land conservation committee. An applicant may apply orally or
17 in writing. The department or the county land conservation committee shall promptly
18 refer the application to the department's designated field engineer. The field engineer
19 shall evaluate the applicant and issue a decision granting or denying the request.

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

24
25 (4) EVALUATING APPLICANTS FOR CERTIFICATION. (a) To evaluate an applicant
26 under sub. (3), the department's field engineer shall complete the certification form

1 shown in *Appendix E*. The field engineer shall rate the applicant under sub. (5) based on
2 the applicant's demonstrated knowledge, training, experience and record of appropriately
3 seeking assistance. Evaluations shall be fair and consistent.

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

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

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

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

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

22 (b) If NRCS has previously rated an applicant under 7 CFR 610.1 to 610.5, the
23 department's field engineer shall give that applicant the same initial rating. Within 18
24 months after the field engineer makes the initial rating, the department's field engineer
25 shall review that rating under sub. (7).
26

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

5 **NOTE:** When recertifying an applicant who was previously certified by the
6 department or NRCS, the department's field engineer may raise one or
7 more rating levels, lower one or more rating levels, or reaffirm one or
8 more rating levels.
9

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

- 13 1. The field engineer.
- 14 2. The practitioner certified.
- 15 3. The practitioner's supervisor if any.

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

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

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

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

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

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

14 (b) Within 15 business days after the department's field engineer receives an
15 appeal under par. (a), the field engineer shall hold an informal meeting with the appellant.
16 The meeting may include a representative of the county land conservation committee.
17 The field engineer may hold the informal meeting in person or by telephone.

18 (c) If an appeal cannot be resolved after an informal meeting under par. (b), the
19 field engineer shall forward the appeal to a department reviewer designated by the
20 administrator of the department's agricultural resource management division. The
21 reviewer shall hold an informal hearing on the appeal within 10 business days after the
22 reviewer receives the appeal, unless the applicant agrees to a later date for the informal
23 hearing. The reviewer shall hold the informal hearing by telephone or at a location

1 determined by the reviewer. Within 10 business days after the conclusion of the informal
2 hearing, the reviewer shall issue a written decision which affirms, reverses or modifies
3 the field engineer's action. The reviewer shall provide a copy of his or her written
4 decision to the applicant. The decision shall include a notice of the applicant's right to
5 request a formal contested case hearing under par. (d).

6 (d) If an applicant disputes the reviewer's decision under par. (c), the applicant
7 may file a request with the department under s. 227.42, Stats., for a formal contested case
8 hearing under ch. 227, Stats., and ch. ATCP 1.

9 (9) SUSPENDING OR REVOKING CERTIFICATION. (a) The department may, for
10 cause, suspend or revoke a certification under this section. The department may
11 summarily suspend a certification, without prior notice or hearing, if the department
12 makes a written finding that the summary suspension is necessary to prevent an imminent
13 threat to the public health, safety or welfare.

14 (b) An order suspending or revoking a certification shall be signed by the
15 secretary or the secretary's designee. Proceedings to suspend or revoke a certificate shall
16 be conducted according to ch. 227, Stats., and ch. ATCP 1.

17 **NOTE:** See ss. 92.18(6) and 93.06(7), Stats.

18 (c) The department shall notify all of the following persons of any suspension or
19 revocation under this subsection:

- 20 1. Any land conservation committee or state agency that employs the individual
21 whose certification is suspended or revoked.
- 22 2. State and federal agencies that provide cost-share funds for agricultural
23 engineering practices.

1 (d) The reduction of a certification rating under sub. (7) does not constitute a
2 suspension or revocation under this subsection.

3 (10) CERTIFICATION GUIDELINES. The department may publish guidelines for the
4 certification of agricultural engineering practitioners under this section. The guidelines
5 may include suggested courses, training activities, and types of knowledge and
6 experience that may help applicants qualify for certification at specified rating levels.

7 (11) SIGNATURE AND DATE REQUIRED. Whenever a person certified under this
8 section approves or submits for approval any document related to the design or
9 construction of an agricultural engineering practice under sub. (2), that person shall sign
10 and date that document.

11 (12) SCOPE OF CERTIFICATION. No certified agricultural engineering practitioner
12 may, for funding purposes under this chapter or s. 281.65, Stats., certify any matter under
13 sub. (5)(a) in a job class more complex than that for which the practitioner is authorized
14 under sub. (5)(a).

15 **ATCP 50.48 Nutrient management planners.** (1) QUALIFICATIONS. To be
16 qualified under ss. 281.65, 281.66, Stats., and this chapter, a nutrient management
17 planner shall be knowledgeable and competent in all of the following areas:

- 18 (a) Compliance with the NRCS technical guide.
- 19 (b) Soil testing.
- 20 (c) Calculating nutrient needs on a field-by-field basis.
- 21 (d) Crediting manure, residual legume nitrogen and other nutrient sources on a
22 field-by-field basis.
- 23 (e) Using conservation plans.

1 (f) Relevant laws related to nutrient management.

2 (g) Preparing nutrient management plans according to s. ATCP 50.04(3).

3 (2) PLANNERS PRESUMPTIVELY QUALIFIED. An individual is considered a
4 qualified nutrient planner under sub. (1), without any action by the department, if all of
5 the following apply:

6 (a) The individual is at least one of the following:

7 1. Recognized as a certified professional crop consultant by the national alliance
8 of independent crop consultants.

9 2. Recognized as a certified crop advisor by the American society of agronomy,
10 Wisconsin certified crop advisors board.

11 3. Registered as a crop scientist, crop specialist, soil scientist, soil specialist or
12 professional agronomist in the American registry of certified professionals in agronomy,
13 crops and soils.

14 4. The holder of other credentials that the department deems equivalent to those
15 specified under subds. 1. to 3. A landowner is presumptively qualified to prepare a
16 nutrient management plan for his or her farm, but not for others, if the landowner
17 completes a department-approved training course and the course instructor approves the
18 landowner's first annual plan. The landowner shall complete a department-approved
19 training course at least once every 4 years to maintain his or her presumptive
20 qualification.

21 (b) The nutrient management planner complies with sub. (3).

22 (c) The department has not disqualified the nutrient management planner under
23 sub. (4).

1 **NOTE:** The department does not affirmatively certify nutrient management
2 planners. A nutrient management planner who meets all of the
3 requirements under sub. (2) may represent himself or herself as a qualified
4 nutrient planner, without any certificate from the department. A person
5 qualified only to prepare his or her own nutrient management plan under
6 sub. (2)(a)4. may not misrepresent that he or she is qualified to prepare
7 nutrient management plans for others.
8

9 (3) NUTRIENT MANAGEMENT PLANS. (a) A qualified nutrient management
10 planner shall prepare nutrient management plans according to s. ATCP 50.04(3).

11 (b) A qualified nutrient management planner may not approve a nutrient
12 management plan that fails to comply with s. ATCP 50.04(3).

13 (4) DISQUALIFICATION. The department may issue a written notice to an
14 individual, declaring that the individual is not a qualified nutrient management planner
15 under this section. The notice shall specify the basis for the department's declaration.
16 The department may disqualify a nutrient management planner if the planner violates
17 sub. (3) or lacks qualifications required under sub. (1).

18 **NOTE:** A person who is named in a disqualification notice under sub. (4) may
19 request a contested case hearing under s. 227.42, Stats., and ch. ATCP 1.
20

21 (5) MISREPRESENTING QUALIFICATION. No person may do any of the following,
22 directly or by implication:

23 (a) Misrepresent that an individual is a qualified nutrient management planner
24 under this section.

25 (b) Represent, contrary to a valid written notice under sub. (4), that an individual
26 is a qualified nutrient management planner under this section.

27 (c) Misrepresent that a person is qualified to perform nutrient management plans
28 for others, if that is not the case.

1 (6) RECORDS. A qualified nutrient management planner shall keep copies of all
2 nutrient management plans that the planner prepares or approves for funding under s.
3 281.65 or 281.66, Stats., or this chapter. The planner shall retain the records for at least 4
4 years, and shall make them available for inspection and copying by the department upon
5 request.

6 **ATCP 50.50 Soil testing laboratories.** (1) CERTIFIED LABORATORY. A nutrient
7 management plan shall be based on soil tests conducted at the university of Wisconsin or
8 another soil testing laboratory certified by the department. The department may certify a
9 laboratory according to this section.

10 **NOTE:** Subsection (1) does not prohibit an uncertified laboratory from
11 performing soil tests. However, a nutrient management plan does not
12 comply with this chapter if it is based on soil tests performed by an
13 uncertified laboratory.

14 (2) APPLYING FOR CERTIFICATION. A laboratory operator may apply to the
15 department for certification under sub. (1). The operator shall apply on a form provided
16 by the department. The application shall include all of the following:

17 (a) The name of the laboratory operator.

18 (b) The address of every laboratory in this state for which the operator seeks
19 certification.

20 (c) The name and telephone number of the individual who is responsible for on-
21 site administration of each laboratory under par. (b).

22 (d) Documentation showing that the laboratory is qualified and equipped to
23 perform accurate soil tests.

24 (e) An agreement to comply with sub. (4).

25 (f) Other relevant information required by the department.
26

1 (3) ACTION ON CERTIFICATION REQUEST. The department shall grant or deny a
2 certification request under sub. (2) within 30 days after the department receives a
3 complete request. The department may grant a certification request based on information
4 provided under sub. (2). A certification is nontransferable. A certification remains in
5 effect until withdrawn by the department. *Cancelled by the Laboratory*

6 (4) NUTRIENT RECOMMENDATIONS. If a certified laboratory recommends nutrient
7 applications to a landowner that exceed the amounts required to achieve applicable crop
8 fertility levels recommended by the University of Wisconsin in UWEX publication A-
9 2809, *Soil Test Recommendations for Field, Vegetable and Fruit Crops (copyright 1998)*,
10 the laboratory shall make those recommendations in writing and shall disclose all of the
11 following in the same document:

12 (a) The landowner's name and address.

13 (b) The nutrient application amounts required to achieve applicable crop fertility
14 levels recommended by the University of Wisconsin. The laboratory shall disclose these
15 amounts so the landowner can easily compare them with the laboratory's recommended
16 amounts.

17 (c) The following statement, clearly and conspicuously printed adjacent to the
18 laboratory's recommended nutrient applications:

19 **IMPORTANT NOTICE**

20 **Our recommended nutrient applications exceed the amounts required to achieve**
21 **applicable crop fertility levels recommended by the University of Wisconsin. The**
22 **amounts required to achieve the UW's recommended crop fertility levels are shown**
23 **for comparison. Excessive nutrient applications may increase your costs, and may**
24 **cause surface water and groundwater pollution. If you apply nutrients at the rates**
25 **we recommend, you will not comply with state soil and water conservation**
26 **standards. You may contact your county land conservation committee for more**
27 **information.**

1
2 **NOTE:** Appendix B contains a convenient summary of UWEX publication A-
3 2809, for selected crops. You may obtain the complete publication and
4 the summary from your county extension agent. The complete publication
5 is also on file with the department, the secretary of state and the revisor of
6 statutes.

7
8 (5) RECORDS. A certified soil testing laboratory shall keep records of all of the
9 following for at least 4 years, and shall make those records available for inspection and
10 copying by the department upon request:

11 (a) Records of all soil tests conducted at the laboratory.

12 (b) Copies of all nutrient application recommendations made by the laboratory.

13 (6) DENYING OR WITHDRAWING CERTIFICATION. (a) The department may, by
14 written notice, deny or withdraw a certification under this section if the department finds
15 that the laboratory has done any of the following:

16 1. Failed to submit a complete application under sub. (2).

17 2. Failed to perform soil tests with reasonable accuracy.

18 3. Failed to comply with applicable requirements under this section.

19 4. Falsified relevant information.

20 (b) The department shall specify, in its notice under par. (a), the reason for the
21 certification denial or withdrawal.

22 **NOTE:** A laboratory operator adversely affected by a certification denial or
23 withdrawal may request a hearing pursuant to s. 227.42, Stats., and ch.
24 ATCP 1.

25
26 **ATCP 50.52 Training for county staff.** (1) ROLE OF THE DEPARTMENT. The
27 department, in consultation with the county land conservation committees and the
28 training advisory committee appointed under sub. (2), may do any of the following to

1 ensure adequate training of county land conservation committee staff who administer
2 programs under this chapter or s. 281.65, Stats.:

- 3 (a) Determine training needs and priorities.
- 4 (b) Identify training opportunities and resources.
- 5 (c) Make training recommendations.
- 6 (d) Approve training programs funded under this chapter.
- 7 (e) Coordinate the delivery of training.
- 8 (f) Provide training and assess fees to cover training costs.

9 **NOTE:** The department may exempt county land conservation committee staff
10 from fees that the department charges for training programs provided by
11 the department.

- 12
- 13 (g) Issue training guidelines for certified agricultural engineering practitioners
14 under s. ATCP 50.46(10).

15 **NOTE:** The department guidelines may include suggested courses, training
16 activities, and the types of knowledge and experience that may help
17 applicants qualify for certification at specified rating levels.

- 18
- 19 (h) Distribute training funds to counties under s. ATCP 50.32.

20 (2) TRAINING ADVISORY COMMITTEE. The department shall appoint a training
21 advisory committee to advise the department on training activities under sub. (1). The
22 committee shall include representatives of all of the following:

- 23 (a) DNR.
- 24 (b) NRCS.
- 25 (c) The university of Wisconsin-extension.
- 26 (d) The statewide association of land conservation committees.
- 27 (e) The statewide association of land conservation committee staff.

1 SUBCHAPTER VII

2 LOCAL REGULATIONS

- 3
- 4 ATCP 50.54 Local regulations; general
- 5 ATCP 50.56 Manure storage systems; ordinance
- 6 ATCP 50.58 Shoreland management; ordinance
- 7 ATCP 50.60 Livestock operations; local regulation
- 8

9 ATCP 50.54 Local regulations; general. (1) CONSISTENCY WITH STATE

10 STANDARDS. Local regulations requiring conservation practices on farms shall be

11 reasonably consistent with this chapter.

12 **NOTE:** See s. 92.05(1), (3)(c) and (3)(L), 92.07(2), 92.105(1), 92.15(2) and (3),
13 92.16 and 92.17, Stats. *92.11 281.16(3)(e) ?*

14 (2) COST-SHARING REQUIRED. No local regulation may require a landowner to

15 take any of the following actions unless the cost-sharing requirements under s. ATCP

16 50.08 are met:

17 (a) Discontinue or modify that part of an agricultural facility or practice that was
18 constructed or begun prior to [revisor inserts effective date of this chapter].

19 (b) Obtain or implement an annual nutrient management plan.

20 (c) Implement annual cropping or tillage practices.

21 **NOTE:** See ss. 92.07(2), 92.105(1), 92.15(4) and 281.16(3)(e), Stats.

22 (3) DEPARTMENT REVIEW. (a) Before a county holds public hearings on a
23 proposed county ordinance to require conservation practices on farms, the county shall
24 submit the proposed ordinance for review by the department unless the county adopts the
25 ordinance under s. 59.692, Stats. The department shall review the county ordinance for
26 consistency with this chapter. The department may decline to award funding under this
27

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