



State of Wisconsin  
Governor Tony Evers

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**Department of Agriculture, Trade and Consumer Protection**  
Secretary Randy Romanski

**DATE:** Sept 1, 2023

**TO:** Board of Agriculture, Trade and Consumer Protection

**FROM:** Randy Romanski, Secretary  
Robby Personette, Administrator, Division of Agricultural Resource Management

**SUBJECT:** ATCP 50: Soil and Water Resource Management Program

**PRESENTED BY:** Kelly Martinson, Program and Policy Analyst, Division of Agricultural Resource Management

**REQUESTED ACTION:**

At the September 21, 2023, Board meeting, the Department will request approval of a final rule draft in order for the Department to submit the final rule to the Governor and Legislature regarding ch. ATCP 50 (Soil and Water Resource Management Program).

**SUMMARY:**

Land and Water Resources bureau staff will provide an overview of the proposed draft rule changes. The Department reviewed portions of chapter ATCP 50 designated in the approved Scope Statement ([SS 081-21](#)). The proposed rule implements the Silurian bedrock agricultural performance standard promulgated in 2018 by the Wisconsin Department of Natural Resources (DNR) in s. NR 151.075, Wis. Admin. Code, as authorized under s. 281.16(3), Wis. Stats.

The proposed rule updates, simplifies, supplements, and clarifies existing rule provisions related to implementing agricultural performance standards, soil and water conservation on farms, county soil and water programs, grants to counties and cost-sharing for landowners. Additional rule provisions established standards for soil and water professionals and the standards for cost-shared practices.

The Department engaged with a wide range of stakeholders including county conservation department staff and committees, farmers and other landowners, farm-related business, such as suppliers, nutrient management planners, engineers and practitioners, and agricultural and environmental organizations. This stakeholder engagement process enabled in-depth discussion to ensure understanding and consideration of stakeholder viewpoints during rule drafting.

The Department held public hearings on the preliminary rule draft on June 13<sup>th</sup>, 2023, in Chilton, and June 14<sup>th</sup>, 2023, in Madison. A virtual participation option was available via Zoom for the Madison public hearing. One person, representing Wisconsin Wetlands Association, appeared, and

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registered in support of the preliminary rule and 20 individuals attended for information only. The Department received written comments from 10 individuals by the June 23, 2023, deadline which resulted in 68 comments to the proposed rule text. Attached is a complete list of people who submitted comments on the proposed rule during the public comment period, the organization they represented, the text of their comment, and the Department's response. The Department addressed each comment and incorporated feedback and changes into the final rule draft.

The Department incorporated all technical Legislative Council Rules Clearinghouse recommendations,

The Department is requesting Board approval to submit the proposed final rule to the Governor and Legislature.

## ATCP 50 Rule - Public Comments & Responses

	Representing	Text of Comment	Response
1	DNR	We noticed that including pasture in Silurian Bedrock language in ATCP 50.04(5) would be consistent with language in NR 151.075(1). Referencing lines 144 and 148 on page 20 in the preliminary draft rule ( <a href="https://datcp.wi.gov/Documents2/ATCP50PrelimDraftRule.pdf">https://datcp.wi.gov/Documents2/ATCP50PrelimDraftRule.pdf</a> ), below is language for your consideration. Line 144: "(a) A landowner shall manage cropland and pasture to achieve compliance..." and make change to read 148 "2. The cropland or pasture is located in an area of Silurian bedrock..."	Pasture was left off inadvertently. Suggested changes made.
2	Iowa County	We like the additional practices that have been added, which will give more flexibility for Counties to address resource concerns.	No change needed. Statement of support.
3	Iowa County	Lines 513 (and 537): With "other forms of financial assistance" such as incentive or performance payments, we won't know the total cost to be able to calculate whether or payments exceed 70%. We suggest removing the language on lines 513 and 514, or making an exception for payments that are not cost-sharing.	Language referenced in line 513 is s. ATCP 50.41 (2)(b) updated to clarification that the costs are related to the installation of a practice. No change to 537 as the language already includes that clarification.
4	Iowa County	Lines 581-589: there should be a mechanism for regular adjustments to these rates so they can keep up.	Moving forward, DATCP intends to open s. ATCP 50 more regularly under a limited scope to review conservation practices and maximum rates.
5	Iowa County	Lines 581-589: Cover crops should be re-added to be a flat rate, rather than a 70% cost-share due to the difficulty of calculating the full costs of planting and terminating cover crops.	Cost share for cover crops is changed back to a flat rate for easier administration, but now includes single and multi-species options.
6	Iowa County	Lines 590-593: The FSA website listed only provides County average soil rates, and includes previous years and both CRP and Grassland rates. We will need clarification on which rate to use (e.g. most current CRP county average rate). If we need to calculate rates based on soil types of specific fields, we will need more detailed soil rental rate information from FSA.	Language is added to clarify which rate to use in calculating the the maximum rate.
7	Iowa County	Lines 665-676: We like that there is more detail on what records should be provided with Nutrient Management Plans. However, it would also be helpful to include other SnapPlus reports, such as NM2 Compliance Check, NM3 Field Data and 590 Assessment, and FM6 Soil Test Summary.	The content of these reports are required components of the 590 standard and supporting documents, which are referenced in the draft rule language as necessary records for determining compliance with the 590 standard. We want to avoid references to information that is subject to change and not under the administration of the department. No change made.
8	Iowa County	Line 951: We like the change to include soil health as a purpose for cover crops	No change needed. Statement of support.
9	Iowa County	Lines 1110-1111: Something established for wildlife or pollinator habitat should not be grazed on a regular basis, although grazing may be a good tool for some weed or brush issues. We suggest taking out reference to 528 and "Pastures for Profit" and including 315 weed treatment instead, which references grazing in relation to specific invasive species.	The changes as suggested are made. The references to 528 prescribed grazing as a management practice and to the "Pastures for Profit" are removed. The conservation practice standard 315 herbaceous weed treatment is added as an eligible management practice for habitat diversification.
10	Iowa County	Line 1120: This will exclude entire Counties from using this practice. Since CREP does not allow harvesting, CREP eligibility should not limit use of this practice.	The department's policy is that land eligible for CREP should be in CREP, with very limited exceptions. By adding harvestable buffers, we are creating the option to use this practice in areas without CREP eligibility. This allows efficient use of available funds through the federal funds available to CREP participants. No change made.
11	Iowa County	Lines 1131 and 1132 (and other references to NRCS technical notes): I could not find these documents online. I'm not sure they still exist, and if they do they are difficult to find. They should be removed, or provided a website where we can access them.	The full titles of the technical notes are added to the rule language to make it easier to locate them within eFOTG or through a search engine.
12	Iowa County	Line 1315 and 1316: We like the addition of strip-till as a Residue Management practice and the repeal of the limitation of not being able to pay for both no-till and cover crops without approval.	No change needed. Statement of support.

13	InDepth Agronomy	<p>Lines 124 through 127 refer to Technical Note WI-1, Appendix 3 Guidelines for Adaptive Nutrient Management (February 2026). The proposed change in language states that “A planner who wishes to justify higher applications shall include credible information to show that the higher applications will not materially increase environmental damage by following criteria outlined in the Wisconsin Conservation Planning Technical Note WI-1, Appendix 3 Guidelines for Adaptive Nutrient Management (February 2016)”. The proposed requirement to provide credible evidence about environmental effects is not consistent with the purpose of Adaptive Nutrient Management outlined in Technical Note W1-1 Appendix 3. The stated goals of Adaptive Nutrient Management are clearly stated as “The goal of adaptive management is to enable growers to use on-farm data to refine nutrient management strategies to adapt to conditions on their farm. Adaptive management in the context of this standard can be used to 1) document the need for and amount of rescue N applications after excessive rainfall; 2) adjust P and K application rates when documented crop yield levels are greater than ranges provided in UWEX Pub. A2809; or 3) refine any nutrient application rate (primarily N) or management strategy using on-farm research data.” Nothing in Technical Note WI-1, Appendix 3 refers to documenting possible changes in environmental effects. This proposed change in language represents a change in the intent of Adaptive Nutrient Management and actually creates a roadblock to farmers and agronomists that need to use Adaptive Nutrient Management to show that current UW fertility recommendations are off-target for the farms they manage. This proposed change puts the burden of proof of environmental effects on farmers and agronomists. This attempted over-reach needs to be squelched.</p>	<p>The proposed addition referencing Technical Note WI-1, Appendix 3 was only intended to create awareness about this tool and process for justifying additional nutrient application under the category of "other special agronomic conditions." It was not DATCP's intention to use Adaptive Nutrient Management as a way to assess environmental effects. To avoid confusion, this reference is removed from the draft rule. Instead, the department will include Tech Note 1, Appendix 3 content in our nutrient management trainings as a way to increase awareness of the tool.</p>
14	Clean Wisconsin and River Alliance	<p>Many of the revisions to this important rule reflect the department's interest in providing additional clarity, simplicity and flexibility for those impacted by the rule. We appreciate this effort and support many of the changes.</p>	<p>No change needed. Statement of support.</p>
15	Clean Wisconsin and River Alliance	<p>Incorporation of NR 151.075 Silurian Dolomite Targeted Performance Standard. We support the inclusion of NR 151.075 which provides much needed consistency in requirements and expectations to protect the water resources and public health in this sensitive area of our state. However, implementation should not be delayed as proposed in the rule. The DNR promulgated their rule in 2018 after many months of engagement with agricultural groups, farmers, state agencies, land conservation departments, concerned citizens and environmental organizations. ATCP 50 provides technical components needed to enable cost-sharing and compliance with the Silurian Bedrock standard, however the timeline for agricultural producers to comply with this rule requirement is needlessly long. NR 151.075 was codified five years ago and agricultural producers in the 16-county area are already aware of the additional manure application restrictions this important rule includes. Delaying implementation for an additional four years disregards the urgency felt by many families impacted by drinking water contamination.</p>	<p>While we understand the interest in moving to full implementation as soon as possible, we have identified several needed steps before the standard can be fully implemented. First, ATCP 50 will need to be fully promulgated in 2024. If promulgated next year, this will leave two growing seasons for farmers to update nutrient management plans and verify depth-to-bedrock on their fields, if needed. During this time, DATCP and counties within the Silurian area will need to do extensive outreach on the implementation of the standard. Additionally, time is needed for Silurian bedrock maps to be refined and incorporated into SnapPlus nutrient management planning software. The department feels that, given all of these necessary steps, the proposed timeline allows for implementation as quickly as possible without creating undue burden on farmers in affected areas, or the limited staff at the local and state levels responsible for delivering training and outreach.</p>
16	Clean Wisconsin and River Alliance	<p>Financial Payment Distinctions and Definition. We support adding the definitions for financial assistance, incentive, and performance payment to the rule. These definitions, with the existing definition of cost-share, encompass the broad range of financial payments available. Promoting greater adoption of conservation practices through financial payments outside of the traditional cost-share definition can be a very cost-effective approach to motivating management changes while protecting the foundational cost-share structures many partners and landowners recognize and value.</p>	<p>No change needed. Statement of support.</p>
17	Clean Wisconsin and River Alliance	<p>Technical Standard Development Process. We strongly support the formalization of the technical standard development process (Line 774, S. 110). The process described in the rule reflects the way that technical standards have been created in Wisconsin for decades. It recognizes the value of engaging a diverse set of participants and impacted stakeholders in the technical standard development process so that the perspectives of all parties can be incorporated into each technical standard, developed or revised. We would encourage routine review and updates to ensure our landowners have the tools they need to comply with state soil and water requirements and also the technical information necessary to ensure their efforts and investments achieve the protections they are intended to provide.</p>	<p>No change needed. Statement of support.</p>

18	Clean Wisconsin and River Alliance	Nutrient Management Planning Documentation Requirements. We strongly support the revisions clarifying the documentation nutrient management planners must provide to determine compliance with this key conservation practice. Nutrient management plans are the first step for farms to assess their farm's natural resource protection needs. Many incentive programs such as the Farmland Preservation Program rely on nutrient management plans to ensure participants are living up to the expectation that they are being good stewards of our state's natural resources while they benefit from receiving annual income tax credits for farming the land and providing the food and fiber our nation needs. The revision to ATCP 50.48 (6) provides some clarity on what is required for nutrient management planners to submit to regulatory and incentive based programs, and we appreciate the added note in this subsection to highlight that the best way for a reviewer to truly understand the farm operation and its nutrient and crop management activities is by providing the nutrient management plan database that well over 95% of the state's nutrient management plans are developed with.	No change needed. Statement of support.
19	Clean Wisconsin and River Alliance	Additional and Updated Conservation and Technical Practice Standards. We support the expansion and revision of the conservation and technical standards. The suite of practice and technical standards included in ATCP 50 are important tools in the toolbox for landowners to consider as they work to achieve their conservation goals. The addition of the hydrologic restoration practice, verification of bedrock depth, harvestable buffers, stream restoration, and conservation crop rotation add to that toolbox.	No change needed. Statement of support.
20	Clean Wisconsin and River Alliance	Contract Extension. We support the flexibility that the rule gives to county land conservation departments and landowners need to realize implementation (Line 401, S. 62). Between irregular weather patterns and other unforeseen challenges, extending funds for landowner contracts into the following year is good, but we would support extending this further into a third year to give county land and water conservation departments to better overcome these challenges.	DATCP will continue to examine options to allow the extension and use of funds into an additional year.
21	Clean Wisconsin and River Alliance	Cost-share payment rates. We would like to see more frequent review of cost-share rates written into the rule to address inflation, as well as what we learn about the true costs of practice implementation and the financial benefits they can provide on the farm. We would suggest a tiered approach, offering more for the adoption of paired or more enhanced practices, rather than simply removing cost share for practices that are less effective by themselves (e.g. no-till). Ideally, we should also re-evaluate not just the individual rates but also the percentage of cost share that will be offered for them. The rule as written establishes a flat 70% (90% for hardship) rate of cost-share for all practices. While more administratively challenging, adjusting this is another lever for providing direction toward the most effective practices or those which are more advanced.	Moving forward, DATCP will consider opening s. ATCP 50 more regularly under a limited scope. Counties are currently able to offer additional incentives for paired or "stacked" practices so long as the total rate per practice doesn't exceed the maximum rates set in ATCP 50.42. The 70% cap on cost share rates are set in ss. 92.14(6)gm and would require legislative action to change.
22	Clean Wisconsin and River Alliance	Bona fide offer of cost-share. While we understand the legal value of requiring cost-share to come in the form of written offers, limiting all offers to written offers of 70% cost-share significantly reduces the flexibility of conservation departments to find the best working solutions for landowners. It also creates an administrative burden which will likely reduce the number of offers that are made. We would support returning the language to the previous version, simply saying that the offer must be "bona fide." More specificity here could be valuable, but the suggested version is too narrow.	Language reverted back to "bona fide" to eliminate confusion.
23	Dane County	The following terms are used in the draft rule language but are not defined or may need further clarification: "Runoff" – line 7 – This term is used in relationship to the proposed definition of "contaminated runoff"; however, the term "runoff" is not currently defined. Does this include precipitation that runs of the land or snow melt, etc.? Chapter NR 151.002(40) defines "runoff" and could be referenced here for consistency.	A reference to the definition of "runoff" provided in s. NR 151 is added to clarify the meaning of "runoff."
24	Dane County	The following terms are used in the draft rule language but are not defined or may need further clarification: "Cost of Compliance" – line 13 – What is to be considered for maintenance under the "cost of compliance" definition? More clarity would be helpful regarding what costs are to be covered.	Language changed back to original language, therefore "cost of compliance" is no longer in the rule draft.
25	Dane County	The following terms are used in the draft rule language but are not defined or may need further clarification: "Nutrient Management Planner" – line 113 – This term is not defined in the rule. Who constitutes a "nutrient management planner"? In addition, the term "planner" (line 116) is also used and not defined. Is it assumed to mean "nutrient management planner"?	A qualified nutrient management planner is defined in 50.48. The reference to a "planner" in line 116 is expanded to "nutrient management planner" for consistency and clarity.
26	Dane County	The following terms are used in the draft rule language but are not defined or may need further clarification: "Cost share funds" – line 498 – This term is not defined. Is this meant to be the same as "financial assistance"? The term "cost-share" and "financial assistance" seems to be used interchangeably throughout the proposed language. It would be good to be consistent in terminology throughout the rule. (i.e. line 559 and 568). Other terms used are cost-share payments and cost-share grants.	Line 498 was updated for clarity. The proposed rule text was reviewed to ensure consistent and appropriate use of terms. A cost-share payment is a payment related to a cost-share grant.
27	Dane County	Line 225 states that the county shall "consider and include" information. What factors should be considered and what information needs to be included regarding information and education, cost-share and other financial assistance, and technical assistance?	The words "consider and" are removed from the rule.
28	Dane County	Line 237 – What factors should be considered under coordinating with other agencies? As a locally-led plan developed using a local advisory committee, agencies already have the ability to be represented in plan development based on the proposed changes under line 243.	Language as drafted is retained. The comment is flagging the language for possible redundancy and it was determined not to be redundant.

29	Dane County	The new conservation practices including conservation crop rotation, conservation cover, habitat diversification, harvestable buffers, hydrologic restoration, nutrient treatment systems, stream restoration, and verification of depth to bedrock are a welcome addition to the suite of tools available to counties to assist landowners with addressing resource concerns.	No change needed. Statement of support.
30	Dane County	With regard to harvestable buffers, it is suggested that the language be modified to allow land eligible for CREP to also be eligible for harvestable buffers unless the land is already enrolled in CREP. Otherwise, this restricts counties that are CREP eligible for implementing harvestable buffers.	The department's policy is that land eligible for CREP should be in CREP, with very limited exceptions. By adding harvestable buffers, we are creating the option to use this practice in areas without CREP eligibility. This allows efficient use of available funds through the federal funds available to CREP participants. No change made.
31	Dane County	In addition, information should be included with regard to eligible and ineligible costs associated with harvestable buffers. Eligible costs could include site preparation, grading, and seeding. Ineligible costs may include plowing previously vegetated lands and postimplementation management.	Eligible costs added. No ineligible costs identified, so no language added with respect to ineligible costs.
32	Dane County	Will this practice cover a rental rate over the term of the contract?	Yes, per-acre financial assistance is based on CRP county average soil rental rates included in 50.42
33	Dane County	With regard to financial assistance for cover crop implementation, a flat rate is preferred to the proposed 70% cost-share rate. A flat rate program could be prepared to incentivize additional practices similar to the program used by the State of Maryland. Flat rates are easier to administer at the local level for management practices. <a href="https://mda.maryland.gov/resource_conservation/pages/cover_crop.aspx">https://mda.maryland.gov/resource_conservation/pages/cover_crop.aspx</a>	Cost share for cover crops is changed back to a flat rate for easier administration, but now includes single and multi-species options.
34	Dane County	In general, the proposed changes to Ch. ATCP 50, Wis. Adm. Code, are beneficial to the implementation of the state's soil and water conservation programming.	No change needed. Statement of support.
35	DBA	Section 3, 4, et. al - Broadened definitions of financial assistance and cost-share. The significant language revision regarding financial assistance, cost-share and incentives needs to be examined closely. DBA wants to ensure that the proposed expansion of these terms does not interfere with other programs, both government and privately funded. Most importantly, farmer-led groups have made strides in changing the conservation discussions in their communities. We cannot jeopardize these efforts by comingling the use of any funds that farmers receive through those projects with cost-share requirements imposed through ATCP 50. DBA would request a more clearly defined or explanation for these changes.	The addition of "Other financial assistance" pertains to funds granted under ATCP 50.34 and 50.35. The PLWPG Program is governed under ATCP 52 and administration of grant funds for Producer-led groups is not affected by changes in the "other financial assistance section."
36	DBA	Section 79, Line 529 - County Committee's ability to specify contract terms. The proposed line 529, proposed ATCP 50.41 (4) (h0) needs to be removed. This line would give a county committee a broad ability to impose requirements of farmers that are nowhere else founded in rule or law.	The provision is removed from the rule draft.
37	DBA	Section 110, lines 773 - 801 - Addition of a Technical Standard Development Process. The above reference Section attempts to delegate rulemaking authority to DATCP and sidestep the rulemaking process for the incorporation of new or updated technical standards. The proposed ATCP 50.618 (d) 3. (lines 796-798) reads that if DATCP determines a new or updated performance standard is better than the existing, then DATCP commence regulatory action from thereon using the new or updated standard. New and updated performance standards can have large financial impacts on farmers and their ability to comply with those new or updated performance standards. This specific language, if not the entire SEction 110, needs to be removed.	The language has been updated for clarity.
38	WWA	The proposed ATCP 50 rule contains significant improvements to help producers take a hydrologic restoration approach to addressing soil and water resource concerns. This is exciting because this is the most effective and impactful work that can be done with a wide range of co-benefits. While WWA supports various provisions of the proposed rule as identified below, most of our comments are focused on the addition of the practices, "Hydrologic Restoration" (50.74), and "Stream Restoration" (50.882).	No change needed. Statement of support.
39	WWA	To ensure landowners have access to all the tools needed to repair hydrology on their lands, we recommend adding the following practices as eligible for cost share under 50.74 CPS 584, CPS 643, CPS 351.	No change needed. CPS 584, CPS 643, CPS 351 are available for use as stand alone practices, secondary practices and through the referenced ATCP 50.882 - Stream Restoration.
40	WWA	The proposed rule improves by leaps and bounds the approach we can take to restore streams by enumerating a new Stream Restoration practice in ATCP 50.882. This fills a gap because the work currently authorized in ATCP 50 is Streambank or Shoreline Protection, which commonly includes bank armoring and riprap practices. While these can be useful in the right situations, they are mostly focused on bank stabilization and aren't necessarily stream restoration. Repairing healthy channel conditions, connections, and functions – especially upstream from erosion prone agricultural lands – is an effective approach that recognizes watershed connections and the important role streams play in transporting water, sediment, and debris. The Stream Restoration practice is likely to be used in conjunction with Hydrologic Restoration, so it is key that they are connected. The parallel language reflects this strong connection.	No change needed. Statement of support.

41	WWA	The proposed ATCP 50 rule contains significant improvements to the definition of wetland development or restoration in ATCP 50.98. Wetland development or restoration has historically been a practice focused on vegetation or wildlife. The proposed definition includes this, but also refers to creating or restoring hydrologic conditions or other important wetland functions. This is important because we know that wetland restoration has many other functions. These include groundwater infiltration, source water protection, erosion control, nutrient management, flood storage, and more.	No change needed. Statement of support.
42	WWA	WWA recommends that if a Wetland Restoration activity is associated with the Hydrologic Restoration practice, then that activity be eligible for 70% cost share. While hydrologic restoration focused practices also produce wildlife benefits, their purpose is to restore hydrologic conditions, connections, and functions. This puts them in alignment with the core purpose of the program in Wisconsin Statute 92.14 to enhance protection of surface water and ground water resources in this state and warrants increased cost-share eligibility.	Wetland restoration is one potential component of hydrologic restoration. If the practice is used to meet an agricultural performance standard, a different cost-share rate may be used. For consistency with existing policy, no change to the rule language is made.
43	WWA	WWA supports the practice of Prescribed Grazing in 50.80. While wetlands can be compatible with a prescribed or rotational grazing plan, it has been the source of many inquiries and questions. Because of this, WWA suggests simple language, "Prescribed Grazing may be compatible with wetlands in some situations."	Wetlands are already referenced in the 528 Prescribed Grazing standard.
44	WWA	WWA supports the proposed definition of performance payment in ATCP 50.01 (29s). Allowing a variety of forms of incentive and providing the flexibility to county land conservation departments to base these on the conservation practice(s) used and the outcomes thereof will spark interest, innovation, and efficiency. Where limited dollars are available, it is in the interest of all to make sure we're using these investments effectively	No change needed. Statement of support.
45	WWA	Current ATCP 50 allows counties to identify priority farms, and in ATCP 50.12 (f), the proposed rule adds to this provision "and priority areas of resource concern." WWA supports the addition of this language because it recognizes that resource concerns may originate beyond the boundaries of a farm property. For example, allowing counties to consider upstream conditions can help identify root causes of erosion and sedimentation and other hydrologic degradation.	No change needed. Statement of support.
46	WWA	WWA supports rule language detailing the process for establishing and revising technical standards. WWA has found the Standards Oversight Council to provide a dependable and accessible forum for this process. It is beneficial to have this laid out as proposed in 50.618 of the proposed ATCP 50 rule.	No change needed. Statement of support.
47	WAPAC, Wisconsin Farm Bureau Federation, WI Corn Growers Association	Cost-share Definitions (Section 3-4, lines 16-23) The Department has added a definition of "financial assistance" and "incentive" to the rule. It appears that monies that are distributed through other programs, such as the producer-led watershed grant program, will now specifically be counted toward meeting cost-sharing requirements under this rule, as well. This seems acceptable as long as the practice is truly the same practice and that the application of those funds is clearly accounted for in the financial contract with the farmer.	Other financial assistance pertains to funds granted under ATCP 50.34 and 50.35. The PLWPG Program is governed under ATCP 52 and administration of grant funds for Producer-led groups is not affected by changes in the "other financial assistance section."
48	WAPAC, Wisconsin Farm Bureau Federation, WI Corn Growers Association	Erosion – T Value (Section 11, lines 63) This rule changes the t-equivalent value from "2 to 5 tons of soil loss per acre per year" to "1 to 5 tons". This seems consistent with NRCS practices.	This is consistent with NRCS practices.
49	WAPAC, Wisconsin Farm Bureau Federation, WI Corn Growers Association	NM Plans that Exceed N Application Rates (Section 16, lines 110-127) In Section 16, lines 110-127, the rule prohibits a plan from exceeding recommended nitrogen applications recommended in A2809. First, it is critical that we preserve the tissue analysis option to exceed N application rates for all crops, but especially potatoes. In addition, we ask that the rule allow for the use of other technologies to justify the need to exceed N application rates such as a Pre-sidedress Soil Nitrate Test (PSNT), which is widely used to optimize nitrogen use for corn and corn silage, and the ability to use other nitrogen models, such as Adapt N. While we understand the need to provide a standard, we need the ability to review and respond to a specific crop's needs. It is critical that this change preserves this option and maintains consistency with NRCE 590. However, ask that the language refer to "applicable criteria" rather than just "criteria" to clarify that not all criteria will be relevant to a particular situation.	Tissue and soil tests are not being removed or changed. ATCP 50 refers to the NRCS 590 standard, which currently allows practices like tissue testing, PSNT, and Adapt. N. With respect to line 126, a separate comment requested that our addition of a reference to this criteria be removed. We removed that reference and therefore this comment is no longer applicable.
50	WAPAC, Wisconsin Farm Bureau Federation, WI Corn Growers Association	Contract Terms for Financial Assistance Contracts (Section 79, lines 529) On line 529, the department includes this language referring to what a financial contract must include: "(h) Other terms or conditions specified by the county land conservation committee." I recommend deleting this line. We strive for regulatory certainty for our members. This is unclear and undefined. It could include anything. We recommend deleting this line.	The provision is removed from the rule draft.
51	WAPAC, Wisconsin Farm Bureau Federation, WI Corn Growers Association	Compliance with New Bedrock Standard (Section 21, lines 143, et. seq.) In Section 21 of the draft (line 143, et seq) the department includes the new bedrock standard. Line 162 lists a requirement that the landowner uses weather and precipitation predictions to determine the appropriate timing of manure application. It follows with a Note in lines 164-166 regarding using "The Runoff Risk Advisory Forecast model." We do not recommend using The Runoff Risk Advisory Forecast model as a requirement, because its accuracy is not very site specific. We recommend that the Note be clarified that this is just a suggestion or an example of what can be used.	The note beginning is updated to clarify that RRAF is an example tool that may be used to meet 50.04(5)c.

52	WAPAC, Wisconsin Farm Bureau Federation, WI Corn Growers Association	Requirements for Soil and Water Professionals (Section 90, lines 643-676) The proposed rule includes several changes for credentialed soil and water professionals in Section 90, lines 643-676. In addition, the rule proposes new recordkeeping requirements for planners. See Section 91, lines 677-684. Specifically, there appears to be a new requirement that the NM plan include "documentation" and "records." This requirement should be limited to record retention requirements and should not require annual record submissions. Currently, all the materials listed in lines 677 – 684 are included in nutrient management plans delivered to customers. Soil and Water Conservation Departments typically only request that the 590 checklists to be submitted annually. Some also require specific SnapPlus reports. Periodically, counties will request a copy of the complete NMP (or SnapPlus file if consultants will provide it) for status reviews. In addition, the Department should ensure that these requirements are consistent with the documentation required for Farmland Preservation review and compliance.	The rule, as written, only clarifies existing requirements for documentation and record keeping and does not impose new requirements. The rule does not explicitly require annual submission, just that planners provide the information to the state or its agents when requested.
53	WAPAC, Wisconsin Farm Bureau Federation, WI Corn Growers Association	New Technical Standard Development Process (Section 110, lines 773-801) Section 110 (lines 773-801) adds a new section to describe a process the department shall use to develop a new or revise an existing technical standard to implement the agricultural performance standards and prohibitions under s. 281.16 (3) (a), Stats. Please note lines 796-801: "3. If the department determines that a recommended technical standard will adequately and effectively implement a performance standard under s. 281.16 (3) (a), Stats., in whole or in part, the new or revised technical standard shall be used beginning with plans developed after the date of this determination." The draft goes on to permit, "(e) The department may identify technical standards that exist or are developed by qualified groups or organizations as adequate and effective to implement the performance standards under s. 281.16 (3) (a), Stats." We ask that this language be removed. These provisions eliminate regulatory certainty for farmers and planners and appear to delegate rulemaking authority to the DATCP staff. Any technical standard that could be enforced under this administrative code should have to be promulgated using the rule process.	The language has been updated for clarity.
54	WAPAC, Wisconsin Farm Bureau Federation, WI Corn Growers Association	Updated References to NRCS Standards (Section 101, 113-125) We have no concerns with the list of updated references to NRCS Standards included in the rule draft.	No change needed. Statement of support.
55	WI L+W	We support the flexibility provided in being able to extend funds for landowner contracts into following year (Line 401, Section 62). However, a number of factors in recent years (flooding and excessively wet weather, global pandemic, and shortages and backlogs of contractors) have demonstrated that project completion within this timeline is challenging. o Recommended modification: a longer time period for projection completion would better allow county land and water conservation departments to get more conservation projects implemented. We suggest making the baseline time period for project implementation two years, with the option of extending projects into a third year if warranted by extenuating circumstances. Allowing for a longer time period for project implementation would be consistent with how the Dept. of Natural Resources administers some of its nonpoint source pollution programs, and would be appreciated by counties.	DATCP will examine options to allow the extension and use of funds into an additional year for consideration in future rule-making.
56	WI L+W	We support the flexibility to provide other forms of financial assistance to landowners, including incentive payments and performance payments (Line 503, Section 79)	No change needed. Statement of support.
57	WI L+W	we suggest evaluating cost-share rates for all practices in the rule to assess whether adjustments are necessary to keep pace with rising costs. A specific example is the no-till cost-share rate payment of \$18.50 per acre (Line 585). In some counties, this rate is too low to facilitate increased participation in the program. For example, through a 2021 SEG Innovation Grant, Sauk County offered \$30 per acre for three years (\$90 per acre upfront), but only had one landowner sign up. This rate should minimally cover the cost of seed and planting expenses.	Moving forward, DATCP will consider opening s. ATCP 50 more regularly under a limited scope to review cost-share practices, including updating rates. No change.
58	WI L+W	We support the expansion of conservation practices for which cost-share funding may be provided, including: conservation crop rotation, conservation cover, habitat diversification, harvestable buffers, hydrologic restoration, nutrient treatment systems, and stream restoration. This will better allow conservation practitioners to address a variety of resource concerns for which cost-share funding previously was lacking. (Defined throughout Subchapter VII)	No change needed. Statement of support.
59	WI L+W	We appreciate the intent with modifying cost-share rates to address variability in costs to implement soft practices such as cover crop plantings and conservation planting in riparian buffers, but removing them from the maximum rate section for cropping practices and instead allowing cost-share at a 70% rate will create an unnecessary administrative burden on the county to provide reimbursement. (Line 581, Section 81) o Recommended modification: Instead of removing cover crops and conservation planting in riparian buffers from the list of flat rate practices, we would instead like to see additional practices that would reflect a tiered system to encourage enhanced practices (multi vs single species), and allow administrative efficiency process. Fond du Lac County and others have utilized a flat-rate reimbursement with great success.	Cost share for cover crops will be changed back to a flat rate for easier administration, and will now include single and multi-species options. Removing conservation planting in riparian buffers from the maximum rates in 50.42 will allow for flexibility in offering cost-share or financial assistance for implementation of a range of practices available to meet the objective.
60	WI L+W	due to fluctuating and unpredictable costs, if a flat-rate reimbursement is established, assessments of the adequacy of those rates should be considered on an established and recurring cycle, to account for inflationary increases.	Moving forward, DATCP will consider opening s. ATCP 50 more regularly under a limited scope. No change.



61	WI L+W	We are excited to see harvestable buffers included in the expansion of cost-sharable practices (Line 1114). Recommended modification: we suggest modifying the draft language around eligibility with the Conservation Reserve Enhancement Program (CREP) to distinguish farmland “currently enrolled” in CREP, instead of prohibiting the full county from cost-sharing harvestable buffers.	It is the department’s policy is that land that is eligible for CREP should be enrolled in CREP, with very limited exceptions. By adding harvestable buffers as a conservation practice available in other areas of the state, we are creating the option to use this practice in areas without CREP eligibility. This allows efficient use of available state and federal funds. No change made.
62	WI L+W	We support inclusion of cost-share for in-field practices to verify the depth to bedrock in areas of the state containing Silurian bedrock (Line 1517, Section 184).	No change needed. Statement of support.
63	WI L+W	We support the language formalizing the development of technical standards (Line 774, Section 110), utilizing the Standards Oversight Council process.	No change needed. Statement of support.
64	WI L+W	We support the clarification regarding the types of records that shall be provided to the department or its agents. o Recommended modification: we suggest that additional types of records be noted including a plain text file of parcel identification numbers or any reports that can be generated through the nutrient management planning software. Similarly, we suggest that this section also reference the authority granted to the department and its agents to request this information related to Livestock Siting, Wis. Stat. s. 93.90 and Manure Storage Ordinances, Wis. Stat. s. 92.16. (Line 665. 50.48(6) Records.	DATCP requires records to verify compliance with the 590 standard, and therefore defers to the standard for required documentation. While tax parcel information is easily generated by nutrient management planners and is useful in efficiently determining field locations, it is not technically a requirement of the 590 standard. For Manure Storage Ordinances, ATCP 50.56(2)g allows for provisions for monitoring including annual submission of a nutrient management plan. For both Livestock Siting and Manure Storage Ordinances, the local ordinances define monitoring requirements.
65	WPVGA	Cost-share Provisions. It appears that the changes to the rule will eliminate the ability for cost-share to be provided at up to 100% and that this is a change from current law. Why eliminate this possibility? We are unsure of how frequently this happened, but it seems unnecessary to foreclose this option. See Sections 3 and 4.	State statute limits cost-sharing with state cost-share funds to 70%, with an exception for cost-sharing up to 90% in the case of economic hardship.
66	WPVGA	NM Plans Needing to Exceed N Application Rates. Growing potatoes often requires exceeding the N application rate in A2809 because potatoes cannot take up N from the soil. So, our growers have relied on the current process to use a tissue test and document the crop needs. This rule appears to amend or add to the criteria needed to be documented for this purpose. We support maintaining the current process for potatoes, as it is working well and is critical to continue to grow our crops in Wisconsin. (See Section 16 and lines 115-117.)	The department is not proposing any changes to the exemptions for exceeding UW nutrient recommendations outlined in ATCP 50.04(3)f, including for soil and tissue testing. The proposed language beginning on line 115 clarifies that the 590 standard needs to be followed when applying supplemental in-season nitrogen; this is an existing requirement per ATCP 50.04(3)e. Any changes to the 590 standard would be done via the Standards Oversight Council when the standard is revised.
67	WPVGA	Financial Assistance Contract Terms. In the section of the rule referring to the contract terms for financial assistance, the Department includes this language referring to what a financial contract must include: “(h) Other terms or conditions specified by the county land conservation committee.” We ask that this “catch-all” provision be deleted. As we review proposed administrative rules, we look for regulatory certainty for our members. This provision is open-ended, unclear, and undefined. It could include anything. As such, we ask that it be removed from the rule. See line 529.	The provision is removed from the rule draft.
68	WPVGA	New Technical Standard Development Process. As a part of the proposed changes to this rule, the Department includes a new section to provide a new process that the Department will use to develop a new or revise an existing technical standard that will be used to implement the agricultural performance standards and prohibitions under s. 281.16 (3) (a), Stats. Please see lines 796-801: “3. If the department determines that a recommended technical standard will adequately and effectively implement a performance standard under s. 281.16 (3) (a), Stats., in whole or in part, the new or revised technical standard shall be used beginning with plans developed after the date of this determination.” “(e) The department may identify technical standards that exist or are developed by qualified groups or organizations as adequate and effective to implement the performance standards under s. 281.16 (3) (a), Stats.” We ask that this language be removed. This section removes regulatory certainty for our farmers AND it also appears to delegate rulemaking authority to the Department staff with no administrative rulemaking process that would (1) put regulated individuals on notice or (2) provide a review process for the new or revised standard. Any technical standard that could be enforced under this administrative code must be required to be promulgated using the rule process.	The language has been updated for clarity.

THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION'S  
PROPOSED ORDER TO ADOPT PERMANENT RULES

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PROPOSED ORDER

The Wisconsin Department of Agriculture, Trade and Consumer Protection proposes an order *to repeal* ATCP 50.01 (2) (m) (Note), 50.01 (24) (Note) and (25) (Note), 50.01 (28) (a) and (28) (b), 50.01 (31), 50.01 (37) (Note), Subch. II (Note), 50.04 (3) (c) (Note), 50.04 (3) (h) and (Note), 50.04 (4) (b) 2. d. (Note), 50.06 (2) (Note), 50.08 (1) (a) (Note), (b) (Note), and (2) and (Note), 50.08 (3) (c), (d) (Note), (4) (c) (Note), and (5) (a) (Note), 50.10 (1) (b) (Note), and (2) (a), 50.12 (2) (f), 50.12 (2) (i) (Note), 50.12 (3) (a) (Note), 50.12 (4) (b) (Note) and (5) (Note), 50.16 (1) (a) (Note), 50.16 (3) (c) (Note), 50.16 (3) (d) (Note), (4) (a) (Note), (5) (c) (2) (Note), (5) (d) (Note), (6) (b) 3. (Note), and (6) (d) (Note), 50.18 (1) (b) (Note) and (1) (c), 50.20 (Note), 50.24 (1) (Note), 50.26 (1) (Note), (2) (a) (Note), (2) (b) (Note), (3) (b) (Note), and (4) (Note), 50.28 (1) (c) 3. (Note), (1) (d) 3. (Note), (1) (c) (Note), (2) (a) (Note), and (2) (b) 1. (Note), 50.28 (2) (b) 2. (Note), 50.28 (3) (b) (Note) and (5) (a) 1. b. (Note), 50.28 (5) (a) 5. (Note), 50.30 (2) (a), (2) (a) (Note), (b), (c), (d), (e), (f), and (Note), 50.32 (1) (Note), (2) (c) (Note), (3) (a) (Note), and (5) (a) (Note), 50.32 (7) (a) (Note), (7) (c) and (7) (d) (Note), 50.32 (10) (Note) and (11) (b) (Note), 50.34 (1) (d) (Note) and (2) (b) (Note), 50.34 (3) (a) (Note) and (3) (c) (Note), 50.34 (4) (a) 2. (Note) and (4) (b) (Note), 50.32 (5m) (d) (Note), 50.34 (6) (a) 3. (Note) and 4. (Note), 50.36 (1) (Note) and (2) (Note), 50.36 (3) (Note), 50.40 (1) (b) and (Note), 50.40 (2) (d) (Note), (3) (Note), (9) (j) (Note), (9) (L) (Note), and (9) (o) (Note), 50.40 (11) (b) (4) and (Note), 50.40 (14) (d) (Note), 50.40 (16) (a) (Note), (b) (Note), and (c) (Note), 50.40 (17) (Note), (18) (Note), and (19), 50.42 (1) (a) (Note), (1) (dr) (Note), and (1) (e) (Note), 50.42 (5) (Note), 50.46 (1) (a) 1. (Note) and (1) (b) (Note), 50.46 (2m) (b) (Note) and (3) (a) (Note), 50.46 (5) (a) 3. (Note) and (5) (b), 50.48 (4) (Note), 50.50 (1) (Note), 50.50 (7) (b) (Note), 50.50 (8) (c) (Note), 50.52 (1) (f) (Note) and (g) (Note), 50.56 (2) (c) (Note), (3) (b) 2. (Note 1), and (3) (b) 3. (Note), 50.56 (4) (c) (Note), 50.56 (6) (a) and (b), 50.60 (2) (b) (Note), 50.61 (2) (Note), 50.61 (4) (c) (Note), 50.62 (3) (d) (Note), 50.62 (f)

(Note), 50.64 (1) (v) (Note), 50.64 (5) (c) (Note), 50.66 (3) (a) (Note), 50.68 (3), 50.705 (5) (b) (Note), 50.77 (4) (a) 1. And (Note), 50.80 (1) (Note), 50.82 (2) (a) 2., 3., and 4., (b), and (3), 50.82 (4) (c) 2., 3., and 4., 50.83 (3) (a) 8., 50.84 (1) (b) and (4) (a) and (b), 50.88 (2) (a) (Note) and (c) (Note), 50.93 (4) (a) 2.; ; **to renumber and amend**; 50.84 (1) (a) **to amend** ATCP 50.01 (2), ATCP 50.01 (2m), 50.01 (4), 50.01 (27) and (Note) and (28), 50.01 (36), 50.04 (1), (2), (2) (Note), and (3) (a), 50.04 (3) (dm) 1. and (Note), (3) (e) and (Note), (3) (f) 1. and (Note)3 (f) 4. and (Note), and (3) (i), 50.06 (1) (a) and (2), 50.08 (3) (b), 50.10 (2), 50.12 (2) (a), (b), (c), (d), (f), (g), (i), and (3) (a), 50.16 (3) (d), 50.26 (1), 50.28 (2) (b) 2., 50.28 (5) (a) 2., 50.30 (2), 50.32 (7) (a), 50.32 (6), 50.32 (8) (a), (c) 1., and (d), 50.34 (1), 50.34 (3) (intro.), (3) (a), (3) (c), (3) (d), and (4) (a) 1. And 2., 50.34 (5m) (intro), (5m) (b), (5m) (c) and (5m) (d), 50.34 (6) (b), (7) (a) 1., and (7) (b), 50.36 (3), Subchapter V (title), 50.40 (1), 50.40 (1) (a) (Note),50.40 (10) (b), 50.40 (17), 50.42 (title), (1), and (a), 50.42 (1) (b) and (1) (dg), 50.46 (1) (d) and (2), 50.46 (5) (a) 2., 50.46 (7) (c), 4(8) (a), (8) (c), (9) (c) 1., and (11) (b), 50.48 (1) (a), (2) (a) 4., (2) (c) (Note), (4) and (6), 50.50 (2) (d) 5. (Note), 50.52 (2) (c), 50.54 (1) (Note), 50.56 (3) (b) 4. (intro.) a., b., and c., (4) (a) and 4 (a) (Note), 50.56 (6), Subchapter VIII (title) and (Note), 50.61 (title) and (1), 50.61 (3) (intro.), 3 (a), and (3) (b), 50.62 (3) (d), 50.62 (5) (e) 1., 2., 3., 4., 5., 6., 7. and 8., and (em) 1., 50.63 (5), 50.64 (1) (e), 50.64 (5) (a), 50.65 (3) (a) 1. and 2. and (Note), 50.66 (3) (a) 1., 2., and 3., 50.67 (3) (a), (b), and (c), 50.68 (1) (a), (1) (b), and (1) (c), 50.68 (2), 50.68 (4), 50.69 (4) (a) 1., 2., 3., 4., 5., 6., and 7., 50.70 (1) and (4) (b) 1., 2., 3., 4., 5., 6., 7., 8., and 9., 50.705 (3) (d) and (5) (a) 1., 2., 3., 4., 5., 6., and 7., and (5) (a) 8. (Note), 50.71 (3) (b) 1., 2., 3., and 4., 50.72 (3) (a) 1., 2., 3., 4., 5., 6., and 7., 50.73 (3) (d) 1., 2., 3., 4., 5., 6., 7., 8., 9., 10., 11., and 12., 50.75 (4) (a) 1. and 2., 50.76 (5) (a) 1., 2., 3., 4., 6., and 7., 50.77 (4) (a) 1., 2., 3., 4., 5., 6., and 7., 50.78 (3) (a), 50.79 (3) (a) 1., 50.80 (2) (intro.) and (2) (c) and (d), 50.80 (3) (a) 1., 2., 3., 4., 5., 6., and 8., 50.81 (5) (a), 50.82 (4) (c), 50.83 (3) (a) 1., 2., 3., 4., 5., 6., and 7., 50.83 (3) (a) 9., 50.84 (1) (a), 50.84 (4) and (5) (a) and (e), 50.85 (4) (a) 1. and 2., 50.86 (4) (b) 1., 2., 3., 4., 5., 6., and 7., 50.87 (4) (a) 1., 2., and 3., 50.88 (2) (a), 50.88 (3) (a) 1., 2., 3., 4., and 5., 50.885 (1) and (4) (a) 1., 2., 3., and 4., 50.89 (3) (b) 1. and 2. and (c), 50.90 (2), (3) (a) and (b) 1. and 2., 50.91 (3) (b) 1., 2., 3., 4., 5., 6., 7., and 8., 50.92 (3) (b) 1. and 2., 50.93 (1) and (4) (a), 50.94 (1) and (3) (a) 1., 2., 3., 4., and 5., 50.95 (3) (a) 1., 2., 3., and 4., 50.96 (3)

(b) 1., 2., 3., 4., 5., 6., 7., and 8., 50.97 (3) (a), 50.98 (1), 50.98 (3) (a) and (3) (a) 1.; **repeal and recreate** 50.08 (5) (b), 50.42 (2); **and to create** ATCP 50.01 (4m), 50.01 (10m), (10r), and 13(m), 50.01 (29s), 50.01 (32m) and (34m), 50.04 (4) (c), 50.04 (5), 50.16 (1) (e) and (2) (d), 50.28 (2) (b) 3., 50.32 (5) (am), 50.34 (5m) (e), 50.36 (3) (b) and (3) (c), 50.38, 50.40 (11) (b) (5), 50.40 (14) (e), 50.41, 50.46 (5) (c), 50.48 (6) (a), (b), (c), and (Note), 50.50 (7) (c), 50.618, 50.62 (5) (f) 1. and 2., 50.64 (5) (d), 50.65 (3) (a) 3., 50.66 (3) (a) 4., 50.663, 50.668, 50.67 (3) (d) and (e), 50.68 (1) (d), 50.733, 50.738, 50.74, 50.785, 50.79 (3) (a) 1m., 50.80 (2) (g), 50.80 (3) (a) 10. and 11., 50.82 (2) (a) 1m., 50.84 (1) (a), 50.86 (4) (b) 9., 50.88 (1) (cg), (cr), and (em), 50.88 (3) (a) 6., 7., 8., and 9., 50.882, 50.925, 50.98 (2) (e), 50.98 (3) (a) 2.; **relating to** soil and water resource management and affecting small businesses.

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

This rule modifies ch. ATCP 50, Wis. Admin. Code, related to Soil and Water Resource Management Program. The department of agriculture, trade and consumer protection (department) administers a variety of programs under ch. 92, Stats.

**Statutes Interpreted:** ss. 71.57 to 71.61, 71.613 (3), 91.80 and 91.82, ch. 92, and s. 281.16, Stats.

**Statutory Authority:** ss. 91.82 (3), 92.05 (3) (c) and (k), 92.14 (8), 92.18 (1), and 281.16 (3) (b) (c) and (e), Stats.

### ***Explanation of Agency Authority***

Chapter 92, Stats., establishes the framework for the department to operate a statewide program that includes implementation of farm conservation practices, approval of county land and water resource management plans, administration of soil and water resource management grants, oversight of manure storage and other local regulations covering livestock operations, provision of training and engineering practitioner certification, and standards for cost-shared practices.

The Wisconsin department of natural resources (DNR) promulgated the Silurian bedrock agricultural performance standards in s. NR 151.075, Wis. Admin. Code, as authorized under s. 281.16 (3), Stats. in 2018. Under state law, DNR is given authority to establish the agricultural performance standards and prohibitions necessary to limit nonpoint sources of pollution. The department, in turn, is expressly charged with prescribing conservation practices to implement the performance standards and prohibitions established by DNR, s. 281.16 (3), Stats.

### ***Related Statutes and Rules***

Chapter 92, Stats., establishes the framework for the department to operate a statewide soil and water resource management program. This rule also implements the soil and water conservation requirements in subch. V of ch. 91, Stats. This rule is related to s. 281.16, Stats., and ch. NR 151.

## *Plain Language Analysis*

### **Background**

The existing provisions in ch. ATCP 50 establish farm conservation practices to meet agricultural performance standards established in ch. NR 151. The rule identifies the conservation practice standards available to implement farm conservation practices. The rule describes the requirements for county soil and water management programs and lays out eligibility and requirements for grants to support the county and provide financial assistance for landowners. The rule describes local regulations a county may adopt and defines the role of the department where applicable. The rule sets standards for certification and qualifications for soil and water professionals and establishes a role for the department in training these professionals. The rule creates general standards for conservation practices for which financial assistance is available and a process to develop or revise the conservation practice standards or technical standards under this rule.

### **Rule Content**

#### **General**

This rule does all the following:

- Makes language updates and changes, including corrections to outdated provisions.
- Updates and adds definitions to clarify the meaning of important terms.
- Updates provisions related to soil and water conservation on farms.
- Updates requirements for administration of the soil and water resource management grant program.
- Updates and clarifies the process for counties to receive grants from the department.
- Adds options for providing financial assistance to landowners.
- Updates and adds maximum rates of financial assistance for some cropping practices.
- Clarifies and updates requirements and eligibility related to engineering certification and nutrient management planning.
- Adds a process for development of technical standards.
- Updates conservation practices and adds new conservation practices.

#### **Language updates**

The proposed rule makes minor clarifying and corrective changes to the rule as well as typical, cosmetic changes that occur during rulemaking. These changes include updating weblinks and references, removal of gendered language and updates to reflect current language usage.

The rule removes most of the notes found throughout all subchapters of the rule. Where appropriate, the content of the note is incorporated into the rule.

#### **Definitions and General Provisions**

This rule now includes definitions for the following:

- Cost-sharing
- Financial assistance
- Incentive
- Land conservation committee
- Performance payments
- Technical standard

- Silurian bedrock

The following existing definitions are revised for clarity and, where appropriate, to incorporate existing notes into the definition.

- Conservation practice
- Contaminated runoff
- Cost-share grant
- Leachate
- NRCS technical guide
- Nutrient management plan

The definition of RUSLE 2 equation was removed.

### **Silurian Bedrock Agricultural Performance Standard and DATCP 01 Verification of Depth to Bedrock technical standard**

In 2018, the DNR promulgated a targeted performance standard related to Silurian bedrock in ch. NR 151.075, designed to minimize the risk for pathogen delivery to groundwater. The performance standard applies within parts of 16 counties in the Silurian bedrock area. The performance standard sets forth manure spreading rates and practices for mechanical manure application that vary according to the soil depth and texture. The most restrictive practices apply to those limited areas of the highest risk for pathogen delivery. Less restrictive requirements apply in areas with 5 to 20 feet to bedrock.

The department is responsible for developing and disseminating technical standards to implement the agricultural performance standards and prohibitions. This rule adds Silurian bedrock as a farm conservation practice and describes the requirements farmers and landowners must meet to implement the performance standard. This rule adds DATCP 01 Verification of Depth to Bedrock Technical Standard as conservation practice. The Verification of Depth to Bedrock Technical Standard is a voluntary tool farmers and landowners can use to verify the depth to bedrock in fields prior to mechanical application of manure. This rule also allows counties to provide cost-share to use this technical standard and to update a nutrient management plan to comply with the Silurian bedrock performance standard. This rule establishes a delayed date of implementation.

### **Soil and Water Conservation on Farms**

This subchapter of the rule details the conservation practices landowners shall implement if they engage in agricultural practices.

This rule updates the effective date of compliance with agricultural performance standards under ss. NR 151.02 to 151.08 from May 1, 2014 to June 1, 2018 to incorporate the Silurian bedrock performance standard, s. NR 151.075. This rule removes dates of delayed implementation that have passed.

This rule clarifies the process to calculate the cost of maintenance when cost-sharing is required and eliminates the specific inclusion of mowing costs in costs of compliance. The rule clarifies that maintenance costs shall be calculated to cover a standard maintenance period that is defined in the rule or specified in the contract. The rule clarifies exemptions to required cost-sharing by removing contour farming and strip cropping, which are one-time practices and costs, and are not cost-shared for multiple years. Pesticide management was removed as the practice is not related to implementation of the agricultural performance standards. Conservation crop rotation is added to the list of exemptions if cost-shared for 4 years.

### **County Soil and Water Program**

This subchapter of the rule details requirements for county soil and water conservation programs. The rule details requirements for land and water resource management plans, annual reporting, annual grant

applications, and accounting and recordkeeping. The rule describes requirements for adopting county ordinances and requirements related to the farmland preservation program.

This rule no longer specifically mentions the county land information and modernization program and instead requires coordination with other county departments more generally.

This rule updates and clarifies requirements for development of county land and water resource management plans. These updates delete repetitive language and updates language to request identification of priority areas of resource concern in addition to identification of priority farms. The updates also simplify requirements for work planning and estimating needs to implement the plan. This rule provides recommendations for the scope of individuals to appoint or consult with as part of a local advisory committee when developing a plan.

This rule requires landowners who claim farmland preservation tax credits to comply with the Silurian bedrock performance standard beginning April 1, 2027, if applicable.

This rule simplifies annual reporting requirements by removing a provision that requires counties to submit their financial contribution toward staffing. This information is already collected through the staffing grant application process.

### **Grants to Counties**

This subchapter of the rule details the process for counties and other project cooperators when applying for grants for staffing and grants for conservation practices for landowners. The subchapter describes the process the department uses to award grants through an annual allocation process.

This rule clarifies the process to apply for grants and establishes a timeline for the department to provide the application form to the county land conservation committees. This rule adds the requirement for the department to share a copy of the environmental assessment related to the allocation plan and incorporates into rule the requirements to allow additional time to review the allocation plan if material changes are made during the drafting of the allocation plan following initial review.

This rule updates the grant priorities list for the annual grant allocation plan by removing examples of state priorities. The list is not exhaustive list of what the priorities of the state shall and may be interpreted to imply that there are specific, individual farms that would meet these criteria as opposed to a category of possible priorities. In addition, the allocation plan application provides more detail about state priorities and s. ATCP 50.30 (3) (a-r) maintains a comprehensive list of other factors for consideration when determining priorities.

This rule updates provisions related to reimbursement requests for consistency with current practice and to eliminate redundancy with the contract. This rule includes language that the first, second, and subsequent staff may differ from those identified in the application to acknowledge that, with the two-year lag between application and funding awards, staff turnover may occur.

This rule is updated to allow counties to use grant funds awarded through the allocation process for financial assistance for conservation practices. “Financial assistance” may include cost-share, incentives, performance payments and other uses not prohibited by statute. This rule states that reimbursement for financial assistance requires documentation to show payment conditions are met.

Language updates include revisions to update “cost-share practice” to “conservation practice” and “cost-share funds” to “grant funds” to account for the expanded use of funds for financial assistance.

This rule clarifies that funds awarded for staffing are non-transferable.

### **Cost-Share Grants to Landowners**

This subchapter of the rule details how a county land conservation committee may use grant funds awarded to the county under ss. ATCP 50.34 or 50.35 to provide financial assistance to landowners.

This rule updates the section from “Cost-share Grants to Landowners” to “Financial Assistance to Landowners” to add options to support landowners in implementing conservation practices. This rule creates a new section, s. ATCP 50.38, to outline the general requirements that apply when counties distribute any type of financial assistance to landowners. This rule creates section s. ATCP 50.41, to describe requirements for offering financial assistance to landowners in forms other than as cost-share.

This rule allows registered architects to certify practice compliance if the practice includes a roof structure.

This rule clarifies that cost-share funds can be used to record any contract authorized under this chapter.

This rule clarifies that the rule does not limit the use financial assistance from other non-state sources, including other sources that are authorized under state law but are not considered state funds.

This rule updates maximum rates to better reflect actual costs and updates the language around maximum rates to remove specific reference to “cost-share” to allow the rates to apply when any type of financial assistance offered under this subchapter. This rule clarifies that financial assistance from government sources cannot exceed 100% of the project costs.

This rule removes conservation planting in riparian buffers from the maximum rate section for cropping practices and instead allows financial assistance associated with these practices to be provided at a 70% cost-share rate, or 90% in the case of economic hardship, or provided as an incentive payment. The rule adds rates for single species and multi-species cover crops. This rule removes field stripcropping as a specific cropping practice with a maximum rate and instead considers this cropping practice to fall under stripcropping. This rule allows for a maximum rate for a one-time update of a nutrient management plan to meet the Silurian bedrock performance standard. This rule establishes a delayed implementation for achieving compliance with the Silurian bedrock performance standard. This rule establishes a maximum rate for installing harvestable buffers.

### **Soil and Water Professionals**

This subchapter of the rule establishes the requirements for certification as a conservation engineering practitioner, qualifications to become a qualified nutrient management planner, and certification requirements for soil and manure testing laboratories. The subchapter also describes the role of the department with respect to training for county staff.

This rule allows for architects to certify roof construction. This rule clarifies that department field engineers must consult with a person with appropriate certification levels to provide a job certification approval level at a level higher than their own. This rule removes language that requires certification levels to automatically match job approval authority under the federal system. This rule updates requirements related to nutrient management planning and clarifies reasonable documentation to show a plan complies with the nutrient management standard. This rule also clarifies and specifies the records a qualified nutrient management planner shall keep and outlines minimum documentation requirements.

### **Standards for Cost-Shared Practices**



This subchapter of the rule outlines the applicable standards for conservation practice implementation that are required when financial assistance is received.

This rule updates language to indicate that conservation practices for which financial assistance is received must meet the conservation practice standards or technical standards described in rule. This rule updates cost-shared practice to conservation practice. This rule updates the use of the phrase technical standard to conservation practice standard with respect to practices in the Natural Resources Conservation Service (NRCS) field office technical guide. NRCS no longer uses the phrase technical standard. DNR and the department still have technical standards.

This rule updates the effective date for NRCS conservation practice standards referenced in the subchapter developed or revised since the last rule revision.

This rule incorporates notes to clarify requirements for implementing practices under this section.

- With respect to manure storage system, require the landowner to submit to the county a completed nutrient management checklist to receive a cost-share payment for this practice and to submit an updated checklist for each year of the maintenance period.
- With respect to a barnyard runoff control system, require the system to comply with one or more of the practices contained in the rule.
- For access road and trails and walkways, require compliance with the section of the rule specific to stream crossing, if applicable.
- For contour farming, require maintenance of the contour farming system for each cropping season for which cost-sharing is provided

This rule updates and clarifies the conservation practice standards for cover crops to the current terminology, reflect the practice's application in an agricultural setting, and the practice's purpose for improved soil health, water quality, and management of excess nutrients.

This rule expands the use of a diversion to control runoff and prevent contamination.

This rule expands the eligible costs allowed under prescribed grazing.

This rule limits eligible costs under residue management to no-till, strip till or similar practices and eliminates ineligible costs.

This rule updates the definition section of roofs to include a definition of animal housing, refine the definition of roof and eliminate the definition of wall. The rule limits ineligible costs to those that pay for a roof over feed storage, machinery storage or animal housing unless otherwise considered eligible.

This rule expands the components allowed for inclusion under streambank or shoreline protection and allows the costs for lunkers as eligible costs for reimbursement through a cost-share grant as part of this practice.

This rule allows ford crossing to be considered a stream crossing.

This rule expands eligible costs for subsurface drains and expands the ability to cost-share the use of the practice as part of other systems including feed storage runoff control system or as part of a nitrate nitrogen or phosphorus removal system.

This rule expands the definition of a wastewater treatment strip to include use from feed storage areas.

This rule expands the definition of a wetland development to the creating or restoring hydrologic or other conditions suitable for wetland vegetation and/or other important wetland functions and to include the types of common practices to implement this conservation practice.

This rule adds conservation practices and a technical standard to Subchapter VIII for Standards for Practices Receiving Financial Assistance.

- Conservation crop rotation
- Conservation cover
- Habitat diversification
- Harvestable buffers
- Hydrologic restoration
- Nutrient treatment systems
- Stream restoration
- DATCP 01 Verification of depth to bedrock

The definition of these practices clarifies their use within an agricultural setting where the application may have additional natural resource benefits for water quality, soil health or other related resource concerns.

### ***Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations***

The NRCS has adopted conservation practice standards that receive financial assistance from NRCS. Current department rules incorporate many NRCS conservation practice standards by reference. In most cases, these standards apply only to conservation practices that receive financial assistance from department funds. Enforcement of the standards is generally contingent on cost-sharing, with some limited exceptions.

While NRCS sets national conservation practice standards, conservation practices standards vary, to some extent, among states. NRCS coordinates its Wisconsin standard-setting process with the department, DNR and others through the Standards Oversight Council (SOC). For purposes of Wisconsin's soil and water conservation program, the department may incorporate NRCS conservation practice standards as written or may modify the conservation practice standards as appropriate.

NRCS gives job approval authority to engineering practitioners who design, install or approve conservation practice standards that receive financial assistance from NRCS. The department certifies practitioners who perform similar functions under department rules. Although the two systems are separate, they have many similarities, and the federal and state agencies collaborate to ensure efficiencies and ensure the landowners who rely on technical services from engineering practitioners receive technical assistance.

The United States Department of Agriculture administers several federal programs that offer voluntary conservation incentives to farmers. The Environmental Quality Incentives Program (EQIP) is a key program offering cost-sharing for conservation improvements, including nutrient management plans, manure storage improvements and other conservation practices. Other programs, such as the Conservation Reserve Program (CRP) and the Conservation Reserve Enhancement Program (CREP) also provide cost-sharing and other incentives for conservation practices.

The department attempts to coordinate state programs for conservation funding with relevant federal programs whenever possible. As a result of confidentiality requirements, federal cost-sharing provided to landowners through federal programs cannot be publicly disclosed and it is difficult to account for what role, if any, these funds may play meeting state agricultural performance standards.

***Summary of Comments Received during Preliminary Comment Period  
and at Public Hearing on Statement of Scope***

A preliminary public hearing on the scope statement for ch. ATCP 50 was held on September 30, 2021. No formal comments were submitted during the preliminary comment period.

***Comparison with Rules in Adjacent States***

A review of other states for requirements related to manure applications on shallow soils over bedrock found limited similarities with s. NR 151.075. There were similarities in technical standards and existing rules statewide that apply to timing of manure applications and setback distances to some direct conduits (wells, sinkholes).

Each state has a soil and water conservation program, and offer cost share grants, but Wisconsin is the only state that coordinates with land conservation departments within counties. Other states have conservation districts, which are established under state law. The goal of conservation districts and land conservation departments is to coordinate assistance from all available sources—public and private, local, state and federal—to develop locally-driven solutions to natural resources concerns.

Regardless of organization, the bulk of funding is acquired from NRCS. In Wisconsin in 2021, approximately \$51.4 million was spent from NRCS for conservation activities through the Environmental Quality Incentives Program (\$30.5 million), the Conservation Stewardship Program (\$18.1 million), and the Agricultural Conservation Easement Program (\$2.8 million). In contrast, in 2022, Wisconsin appropriated approximately \$9 to \$11 million for county conservation staff. Additionally, approximately \$6 million was available for cost-share to producers to install conservation practices with county assistance. Wisconsin is only state where a Farmland Preservation Program requires participants to comply to soil and water conservation standards.

**Illinois**

While Illinois has a statewide farmland preservation program in which landowners may restrict the use of their land to agricultural or related uses in exchange for tax credits, the program does not include conservation compliance requirements.

The Illinois Department of Agriculture offers Sustainable Agriculture grants to organizations, governmental units, educational institutions, non-profit groups, and individuals to cost share a variety of conservation practices. Practices are funded at a 75% cost-share rate, but the list of eligible practices is much smaller than the number of practices in Wisconsin.

**Iowa**

Iowa nutrient management planning includes a nitrogen leaching index and, like Wisconsin, includes restrictions on manure applications near surface water, groundwater conduits, and frozen soil. Iowa requires 200 ft. setbacks from sinkholes and wells when manure is not incorporated and 0 ft. setback when manure is incorporated. There are no specific requirements for spreading manure over shallow bedrock soils in Iowa.

While Iowa operates a county-based statewide farmland preservation program in which landowners may restrict the use of their land to agricultural or related uses in exchange for tax credits, the program does not include conservation compliance requirements.

The Iowa Department of Agriculture and Land Stewardship offers both cost-sharing and incentive payment programs. Cost-sharing usually cannot exceed 50%, and they have an active watershed program similar to Wisconsin's old priority watershed program. Iowa also offers a revolving loan fund to fund conservation activities.

### **Michigan**

Michigan's Generally Accepted Agricultural Management Practices (GAAMP) provide general recommendations to keep manure within the root zone of plants. GAAMPs have no specific manure setback recommendations from direct conduits (wells, sinkholes) and no recommendations for spreading manure in shallow bedrock soils.

While Michigan has a statewide farmland preservation program in which landowners may restrict the use of their land to agricultural or related uses in exchange for tax credits, the program does not include conservation compliance requirements.

The Michigan Department of Agriculture and Rural Development offers all 75 conservation districts base funding with the Michigan Agricultural Environmental Assurance Program (MAEAP). Cost-sharing is also available for MAEAP verification.

### **Minnesota**

Minnesota has no specific requirements for manure applications on shallow soils over fractured bedrock. Minnesota recommends at least 2 ft. of soil between manure and fractured bedrock and avoid fall applications of manure (N loss).

While Minnesota has a statewide farmland preservation program in which landowners may restrict the use of their land to agricultural or related uses in exchange for tax credits, the program does not include conservation compliance requirements.

The Minnesota Department of Agriculture (MDA) offers grants via their Clean Water Fund, Agricultural Water Quality Certification Program (MAWQCP), and Revolving Loan Fund for Best Management Practices. The MDA received \$21.7 million from the Clean Water Fund in 2020-2021 and the legislature appropriated \$20.24 million of Clean Water Funds for the MDA in 2022-2023. The MDA is using Clean Water Fund dollars to support a variety of programs, projects, and activities.

### ***Summary of Factual Data and Analytical Methodologies***

After the DNR passed s. NR 151.075 in 2018, the department published DATCP 01 - Verification of Depth to Bedrock Technical Standard in February 2020. The technical standard was developed through the Standard Oversight Council using the council's standard development process.

To develop this rule, the department held multiple listening sessions and stakeholder meetings with a variety of stakeholders including farm groups, environmental groups, and government entities such as county land and water conservation departments and staff from other state agencies. The meetings allowed the department to gather input and incorporate that input into the rule.

### ***Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis***

The department has prepared a preliminary draft Economic Impact Analysis that includes cost estimates based on available cost data.

## *Fiscal Estimate and Economic Impact Analysis*

The Fiscal Estimate and Economic Impact Analysis is attached.

### *Effect on Small Business*

The department's draft Economic Impact Analysis includes information on the effect of the rule on small business. The department considered how the impact on small business could be reduced. The proposed rules allow flexibility for farmers and options for achieving compliance with the Silurian bedrock performance standards. Additional opportunities are created through an expanded use of grant funds for financial assistance and the addition of conservation practices available for financial assistance.

The Department's Regulatory Review Coordinator may be contacted by:  
Email at [Bradford.Steinel@wisconsin.gov](mailto:Bradford.Steinel@wisconsin.gov)  
Telephone at (608) 224-5024

The Regulatory Flexibility Analysis is attached.

### *Department Contact Person*

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### *Place Where Comments are to Be Submitted and Deadline for Submission:*

Comments must be received on or before June 23, 2023 to be included in the record of rule-making proceedings. Submit comments:

#### **By mail to:**

Kelly Martinson  
Division of Agricultural Resource Management  
Department of Agriculture, Trade and Consumer Protection  
P.O. Box 8911  
Madison, WI 53708-8911

**By email to:** [DATCPLANDWATER@wisconsin.gov](mailto:DATCPLANDWATER@wisconsin.gov)

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### RULE TEXT

- 1 **SECTION 1.** ATCP 50.01 (2) and (2m) are amended to read:
- 2 ATCP 50.01 (2) "Conservation practice" means a facility or practice that is designed to prevent or reduce soil
- 3 erosion, prevent or reduce non- point source water pollution, or achieve or maintain compliance with soil and

4 water conservation standards. "Conservation practice" includes a nutrient management plan and DATCP 01  
5 Verification of Depth to Bedrock.

6 **(2m)** "Contaminated runoff" means ~~drainage that has come through or across a feed storage or manure~~  
7 ~~storage area runoff~~, as defined in s. NR 151.002 (40), that comes into contact with feed or manure.  
8 "Contaminated runoff" includes the liquid and any sediment, manure, feed, or other material carried in the  
9 liquid.

10 **SECTION 2.** ATCP 50.01 (2m) (Note) is repealed.

11 **SECTION 3.** ATCP 50.01 (4) is amended to read:

12 ATCP 50.01 **(4)** "Cost-share grant" ~~is a means a grant that reimburses~~ to reimburse a landowner for ~~all or~~  
13 part of the cost to install or maintain a conservation practice identified in the grant.

14 **SECTION 4.** ATCP 50.01 (4m) is created to read:

15 ATCP 50.01 (4m) "Cost-sharing" means the action of financing a conservation practice by means of a cost-  
16 share grant.

17 **SECTION 5.** ATCP 50.01 (10g), (10r), and (13m) are created to read:

18 ATCP 50.01 **(10g)** "Financial Assistance" means funding in the form of a cost-share grant, incentives,  
19 performance payments or other payments that are provided to a landowner to adopt or install conservation  
20 practices.

21 **(10r)** "Incentive" means a form of a flat-rate payment or stipend made to a landowner to install  
22 conservation practices.

23 **(13m)** "Land conservation committee" means a committee created by a county board the meets the  
24 requirements in s. 92.06, Stats.

25 **SECTION 6.** ATCP 50.01 (24) (Note) and (25) (Note) are repealed.

26 **SECTION 7.** ATCP 50.01 (27) and (Note) are amended to read:

27 ATCP 50.01 **(27)** "NRCS ~~technical guide~~ conservation practice standard" means the standard found in the  
28 Wisconsin NRCS field office technical guide, unless otherwise specified.

29 **Note:** Copies of the NRCS ~~technical guide~~ conservation practice standards are on file with the department  
30 and the legislative reference bureau. Copies of individual standards contained in the NRCS technical guide  
31 may be obtained from a county land conservation department, an NRCS field office, ~~the national NRCS~~  
32 ~~website at: <http://www.nrcs.usda.gov/>, or the~~ Wisconsin NRCS website at: <http://www.wi.nrcs.usda.gov/>,  
33 ~~or the national NRCS website at: <http://www.nrcs.usda.gov/>.~~

34 **SECTION 8.** ATCP 50.01 (28) (intro.) and (Note) is consolidated, renumbered ATCP 50.01 (28), and  
35 amended to read:

36 **(28)** “Nutrient management plan” means ~~any of the following:~~

37 ~~(a) A plan required under s. ATCP 50.04 (3) or 50.62 (5) (f).~~

38 ~~(b) A farm nutrient plan prepared or approved, for a landowner, by a qualified nutrient management planner~~  
39 ~~plan writer per s. ATCP 50.48 and meeting the requirements under s. ATCP 50.04 (3) or 50.62(5)(f).~~

40 **Note:** A nutrient management plan must comply with s. ATCP 50.04 (3).

41 **SECTION 9.** ATCP 50.01 (28) (a) and (b) are repealed.

42 **SECTION 10.** ATCP 50.01 (29s) is created to read:

43 ATCP 50.01 **(29s)** “Performance payment” means payments provided to landowners in return for the  
44 landowner meeting certain conservation benchmarks. Performance payments can vary based on the  
45 conservation practice or practices used and the estimated environmental benefits.

46 **SECTION 11.** ATCP 50.01 (31) is repealed.

47 **SECTION 12.** ATCP 50.01 (32m) and (34m) are created to read:

48 ATCP 50.01 **(32m)** “Silurian bedrock” means the area in Wisconsin where the bedrock consists of Silurian  
49 dolomite with a depth to bedrock of 20 feet or less. This area comprises portions of the following counties:  
50 Brown, Calumet, Dodge, Door, Fond du Lac, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie,  
51 Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha. Areas where Silurian bedrock occurs  
52 in Wisconsin can be identified by the most current NRCS, Wisconsin Geological Natural History Survey,

53 department of agriculture, trade and consumer protection, department of natural resources, county maps, or  
54 infield bedrock verification methods.

55 **(34m)** “Technical standard” refers to standards for which the department or DNR is a custodian.

56 **SECTION 13.** ATCP 50.01 (36) is amended to read:

57 ATCP 50.01 **(36)** “T-value” means the maximum average annual rate of soil erosion for each soil type that  
58 will permit a high level of crop productivity to be sustained economically and indefinitely. For most soils,  
59 “T-value” is equivalent to 1 to 5 tons of soil loss per acre per year.

60 **SECTION 14.** ATCP 50.01 (37) (Note) is repealed.

61 **SECTION 15.** Subch. II (Note) is repealed.

62 **SECTION 16.** ATCP 50.04 (1), (2), (2) (Note) and (3) (a) are amended to read:

63 ATCP 50.04 **(1)** NONPOINT SOURCE POLLUTION CONTROL. A landowner shall implement conservation  
64 practices that achieve compliance with DNR performance standards under ss. NR 151.02 to 151.08, in  
65 effect on ~~May 1, 2014~~ June 1, 2018. A nutrient management plan developed in accordance with sub. (3)  
66 may be used to demonstrate compliance with ss. NR 151.04 and 151.075.

67 **Note:** Landowners who claim farmland preservation tax credits must comply with conservation standards  
68 as required under s. 91.80, Stats.

69 **(2)** SOIL EROSION CONTROL A landowner shall manage ~~all fields including pastures, and related field~~  
70 ~~practices, so that soil erosion rates on cropped and pastured soils do not exceed T-value.~~ all lands where  
71 crops or feed are grown, including pastures, so that sheet, rill, and wind erosion rates on cropped and  
72 pastured soils do not exceed T-value. Sheet and rill erosion may be calculated using the RUSLE 2 equation  
73 or equivalent. Wind erosion may be calculated using the NRCS Wind Erosion Prediction System (WEPS).

74 **Note:** ~~See s. 92.025 (1), Stats., and s. NR 151.02. Soil erosion includes erosion caused by wind or water.~~  
75 ~~For most soils, “T-value” is equivalent to 2 to 5 tons of soil loss per acre per year. Sheet and rill soil erosion~~  
76 ~~from water is calculated according to the RUSLE 2 equation, published by NRCS. Wind erosion is~~  
77 ~~calculated according to the NRCS Wind Erosion Prediction System (WEPS) model. Copies of RUSLE 2~~



78 and the NRCS WEPS model are on file with the department and the legislative reference bureau. Copies of  
79 both models may also be obtained from the NRCS website at: <http://www.wi.nrcs.usda.gov/technical>.

80 **(3) NUTRIENT MANAGEMENT PLAN.** (a) A landowner shall have and follow an annual nutrient management  
81 plan when applying nutrients to any field, including pastures, ~~after the date specified in par. (h).~~ A nutrient  
82 management plan shall comply with this subsection.

83 **SECTION 17.** ATCP 50.04 (3) (c) (Note) is repealed.

84 **SECTION 18.** ATCP 50.04 (3) (dm) 1. and (Note), (e) and (Note), and (f) 1. are amended to read:

85 ATCP 50.04 **(3)** (dm) 1. Standard values specified in Nutrient Application Guidelines for Field, Vegetable  
86 and Fruit Crops, UWEX publication A2809 referenced in the NRCS ~~technical guide~~ conservation practice  
87 standard 590.

88 **Note:** The current 2012 version of UWEX pub. A2809 and subsequent editions are available at:  
89 [https://datcp.wi.gov/Pages/Programs\\_Services/ATCP50.aspx](https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx) and are also on file with the department and  
90 the legislative fiscal bureau.

91 (e) The plan shall comply with the NRCS ~~technical guide~~ conservation practice standard 590 nutrient  
92 management ~~standard 590~~ (December, 2015) except for sections IV. D., IV. E., and V., and shall also  
93 comply with the *Wisconsin Conservation Planning Technical Note WI-1* (February, 2016).

94 **Note:** The NRCS ~~technical guide~~ conservation practice standard 590 (December, 2015) and the companion  
95 document Wisconsin Conservation Planning Technical Note WI-1 (February, 2016) are on file with the  
96 department and the legislative reference bureau. Copies are available from a county land conservation  
97 department, a NRCS field office, the national NRCS website at: <http://www.nrcs.usda.gov>, the Wisconsin

98 NRCS website at: [www.wi.nrcs.usda.gov](http://www.wi.nrcs.usda.gov), or the department website at:  
99 [https://datcp.wi.gov/Pages/Programs\\_Services/ATCP50.aspx](https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx). ~~The NRCS technical guide standard 590~~  
100 ~~(December, 2015) includes the options for the development of a P management strategy when manure or~~  
101 ~~organic by products are applied during the crop rotation using either the Phosphorus Index (PI) or Soil Test~~  
102 ~~Phosphorus Management Strategy. A person may obtain a checklist to gather information for a nutrient~~

103 ~~management plan by visiting~~ Components of a nutrient management plan are summarized on a checklist.  
104 An example nutrient management checklist is available at the department's website at:  
105 [https://datcp.wi.gov/Pages/Programs\\_Services/ATCP50.aspx](https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx).

106 (f) 1. A soil or tissue test reveals a specific nutrient deficiency. For supplemental in-season nitrogen  
107 applications, a nutrient management planner shall follow steps outlined in NRCS conservation practice  
108 standard 590 nutrient management (December 2015).

109 **SECTION 19.** ATCP 50.04 (3) (f) 1. (Note) is created to read:

110 **Note:** Environmental conditions can make it challenging to assess nutrient deficiencies. In-field scouting  
111 is strongly recommended to verify the nutrient deficiency is not a result of pest or disease pressure, and that  
112 an additional nutrient application will resolve the observed deficiency.

113 **SECTION 20.** ATCP 50.04 (3) (f) 4. and (Note) are amended to read:

114 4. Other special agronomic conditions documented by the nutrient management planner. A nutrient  
115 management planner who wishes to justify higher applications shall include credible information to show  
116 that the higher applications will not materially increase environmental damage.

117 **Note:** ~~The 2006 and subsequent editions~~ 2012 edition of the UWEX publication A2809 ~~are available from~~  
118 ~~a county extension agent. The 2006 and 2012 editions are also~~ is on file with the department and the  
119 legislative reference bureau. The latest edition of A2809 is available from the UWEX website at:

120 <http://learningstore.uwex.edu>. Copies are also available from the department website at:  
121 [https://datcp.wi.gov/Pages/Programs\\_Services/ATCP50.aspx](https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx).

122 **SECTION 21.** 50.04 (3) (h) and (Note) are repealed.

123 **SECTION 22.** ATCP 50.04 (3) (i) is amended to read:

124 ATCP 50.04 (3) (i) A landowner is rebuttably presumed to comply with this section if the landowner  
125 complies with a nutrient management plan that is prepared or approved by a nutrient management planner,  
126 ~~other than the farmer,~~ who is qualified under s. ATCP 50.48.

127 **SECTION 23.** ATCP 50.04 (4) (b) 2. d. (Note) is repealed.

128 **SECTION 24.** ATCP 50.04 (4) (c) is created to read:

129 ATCP 50.04 (4) (c) Determinations regarding compliance with this standard may be appealed as authorized  
130 under s. 227.42, Stats., or other provisions of law.

131 **SECTION 25.** ATCP 50.04 (5) is created to read:

132 ATCP 50.04 (5) SILURIAN BEDROCK.

133 (a) A landowner shall manage cropland or pasture, or both, to achieve compliance with DNR performance  
134 standard for Silurian Bedrock under s. NR 151.075.

135 (b) A landowner is not required to comply with this section unless all of the following conditions are met:

- 136 1. They mechanically apply manure to cropland or pasture areas.  
137 2. The cropland or pasture, or both, is located in an area of Silurian bedrock.

138 (c) A landowner is presumed to comply with this section if all of the following apply:

139 1. The landowner's nutrient management plan is written in accordance with s. ATCP 50.04 (3)  
140 and the plan incorporates the restrictions and prohibitions set forth in s. NR 151.075 where  
141 applicable.

142 2. The landowner uses any of the following, or any combination of the following:

143 a. Silurian bedrock maps developed by the department of agriculture, trade and consumer protection, the  
144 department of natural resources, or both, maps available from the University of Wisconsin department of  
145 soil science, maps available from the Wisconsin geological and natural history survey, or NRCS soil survey  
146 maps.

147 b. In-field bedrock verification conducted in compliance with s. ATCP 50.925.

148 3. The landowner uses weather and precipitation predictions to determine the appropriate timing of manure  
149 application.

150 **Note:** The Runoff Risk Advisory Forecast is an optional tool that highlights the highest risk within the  
151 forecast period of 3 days, with an extended forecast period of 10 days in the presence of frozen soils or  
152 snow, found at: <https://www.manureadvisorysystem.wi.gov/runoffrisk/index>.

153 (d) A landowner under paragraph (b) has until April 1, 2027, to comply with paragraph (a).

154 **SECTION 26.** ATCP 50.06 (1) (a) and (2) are amended to read:

155 ATCP 50.06 (1) (a) Conservation practices identified in subch. VIII or the NRCS field office technical  
156 guide.

157 (2) FUNDED PRACTICES. Conservation practices for which a landowner receives ~~a cost-share grant~~ financial  
158 assistance under this chapter shall comply with subch. VIII.

159 **SECTION 27.** ATCP 50.06 (2) (Note) is repealed.

160 **SECTION 28.** ATCP 50.08 (1) (a) (Note), (b) (Note), and (2) (Note) are repealed.

161 **SECTION 29.** ATCP 50.08 (3) (b) is amended to read:

162 ATCP 50.08 (3) (b) The reasonable value of necessary labor, equipment, and supplies provided by the  
163 landowner in the installation and maintenance of the conservation practice for the period required under  
164 subch. VIII or specified in the contract. This does not include normal operating routines such as clean-outs  
165 of barnyards, storage facilities, and gutters.

166 **SECTION 30.** ATCP 50.08 (3) (c), (d) (Note), (4) (c) (Note), and (5) (a) (Note) are repealed.

167 **SECTION 31.** ATCP 50.08 (5) (b) is repealed and recreated to read:

168 ATCP 50.08 (5) (b) The following conservation practices if those practices have already been cost-shared  
169 for 4 years:

- 170 1. Cover crops as defined in s. ATCP 50.68 (1).
- 171 2. Nutrient management as defined in s. ATCP 50.78 (1).
- 172 3. Residue management as defined in s. ATCP 50.82 (1).
- 173 4. Conservation crop rotation as defined in s. ATCP 50.668 (1).

174 **SECTION 32.** ATCP 50.10 (1) (b) (Note) is repealed.

175 **SECTION 33.** ATCP 50.10 (2) (intro.) and (b) is consolidated, renumbered ATCP 50.10 (2) and amended  
176 to read:

177 ATCP 50.10 (2) COORDINATION. A county land conservation committee shall, to the extent practicable,  
178 coordinate the program elements under sub. (1) with each other and with ~~all of the following:~~

179 ~~(b) The the related activities of NRCS, state agencies, other county departments and other governmental~~  
180 ~~entities in that county.~~

181 **SECTION 34.** ATCP 50.10 (2) (a) is repealed.

182 **SECTION 35.** ATCP 50.12 (2) (a) is amended to read:

183 ATCP 50.12 (2) (a) Water quality and soil erosion conditions throughout the county, including  
184 identification of the causes of water quality impairment and pollutant sources. The plan shall include water  
185 quality assessments for each watershed in the county if available from DNR, ~~if any.~~

186 **SECTION 36.** ATCP 50.12 (2) (b) is amended to read:

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

190 **SECTION 37.** ATCP 50.12 (2) (b) (note) is repealed.

191 **SECTION 38.** ATCP 50.12 (2) (c) is amended to read:

192 (c) Water quality objectives for each watershed, including any available pollutant load reduction targets,  
193 consistent with conditions identified in par. (a) if available from DNR. ~~The county shall consult with DNR~~  
194 ~~to determine water quality objectives and to identify pollutant load reduction targets.~~

195 **SECTION 39.** ATCP 50.12 (2) (d) is amended to read:

196 (d) Key water quality and soil erosion problem areas consistent with conditions identified in par (a). ~~The~~  
197 ~~county land conservation committee shall identify key water quality problem areas in consultation with~~  
198 ~~DNR.~~

199 **SECTION 40.** ATCP 50.12 (2) (f) is amended to read:

200 (f) A plan to identify priority farms and priority areas of resource concern in the county.

201 **SECTION 41.** ATCP 50.12 (2) (f) (Note) is repealed.

202 **SECTION 42.** ATCP 50.12 (2) (g) is amended to read:

203 (g) County strategies to encourage voluntary implementation of conservation practices under s. ATCP  
204 50.04. A county shall ~~estimate the amount of~~ include information and education, cost-sharing and other  
205 financial assistance, and technical assistance needed to implement its plan.

206 **SECTION 43.** ATCP 50.12 (2) (h) (Note) is repealed.

207 **SECTION 44.** ATCP 50.12 (2) (i) is amended to read:

208 (i) The county's multi-year workplan to achieve the objectives identified in par. (c) to implement the farm  
209 conservation practices under s. ATCP 50.04, and achieve compliance with performance standards under  
210 ch. NR 151. The plan shall identify priorities, benchmarks for performance, and expected costs, ~~including~~  
211 ~~an estimate of costs to implement conservation practices to achieve the objectives identified in par. (c).~~

212 **SECTION 45.** ATCP 50.12 (2) (i) (Note) is repealed.

213 **SECTION 46.** ATCP 50.12 (3) (a) is amended to read:

214 **(3)** (a) Appoint and consult with a local advisory committee of interested persons that reflects a broad  
215 spectrum of public interests and perspectives. The committee could include affected farmers, landowners  
216 and businesses, nongovernmental organizations, and federal, state, local and tribal officials, or other county  
217 departments.

218 **SECTION 47.** ATCP 50.12 (3) (a) (Note) is repealed.

219 **SECTION 48.** ATCP 50.12 (4) (b) (Note) and (5) (Note) are repealed.

220 **SECTION 49.** ATCP 50.16 (1) (a) is amended to read:

221 ATCP 50.16 **(1)** (a) Except as provided in ~~par.~~ pars. (d), and (e) and sub. (2), a landowner claiming farmland  
222 preservation tax credits shall comply with the standards and practices in s. ATCP 50.04.

223 **SECTION 50.** ATCP 50.16 (1) (a) (Note) is repealed.

224 **SECTION 51.** ATCP 50.16 (1) (e) and (2) (d) are created to read:

225 ATCP 50.16 (1) (e) A landowner claiming farmland preservation tax credits shall comply with the Silurian  
226 bedrock performance standard in s. NR 151.075, where applicable, beginning on April 1, 2027.

227 (2) (d) Landowners who enter into, or modify, a farmland preservation agreement after April 1, 2027, shall  
228 comply with the soil and water conservation standards in effect at the time the agreement was entered into  
229 or modified, and shall be required, under the terms of that agreement, to comply with the Silurian bedrock  
230 performance standard in s. NR 151.075, where applicable. Landowners who entered into, or were  
231 successors of a farmland preservation agreement, signed or modified before April 1, 2027, who also claim  
232 the farmland preservation tax credit under zoning shall comply with sub. (1) (e).

233 SECTION 52. ATCP 50.16 (3) (c) (Note) is repealed.

234 SECTION 53. ATCP 50.16 (3) (d) is amended to read:

235 ATCP 50.16 (3) (d) The land conservation committee approves the performance schedule, including the  
236 required practices and the time allowed to achieve compliance. The land conservation committee may  
237 establish shorter periods to achieve compliance ~~that than~~ the 5 year maximum allowed under this  
238 subsection. A landowner is considered to be implementing ~~his or her~~ the landowner's their performance  
239 schedule if the landowner is making reasonable progress in installing the required practices and is taking  
240 other appropriate actions in the time frame identified by the land conservation committee in the performance  
241 schedule to achieve compliance.

242 SECTION 54. ATCP 50.16 (3) (d) (Note), (4) (a) (Note), (5) (c) (2) (Note), (5) (d) (Note), (6) (b) 3.

243 (Note), and (6) (d) (Note) are repealed.

244 SECTION 55. ATCP 50.18 (1) (b) (Note) and (1) (c) are repealed.

245 SECTION 56. ATCP 50.20 (Note) is repealed.

246 SECTION 57. ATCP 50.24 (1) (Note) is repealed.

247 SECTION 58. ATCP 50.26 (1) is amended to read:

248 ATCP 50.26 (1) ANNUAL APPLICATION. A county land conservation committee shall apply to the  
249 department by April 15 of each year on a form provided by the department by January 31<sup>st</sup> of each year, to

250 obtain funding under this chapter for the next calendar year. ~~The committee shall apply to the department~~  
251 ~~on a form provided by the department.~~ The application shall comply with this section.

252 **SECTION 59.** ATCP 50.26 (1) (Note), (2) (a) (Note), (2) (b) (Note), (3) (b) (Note), and (4) (Note) are  
253 repealed.

254 **SECTION 60.** ATCP 50.28 (1) (c) 3. (Note), (1) (d) 3. (Note), (1) (e) (Note), (2) (a) (Note), and (2) (b) 1.  
255 (Note) are repealed.

256 **SECTION 61.** ATCP 50.28 (2) (b) 2. is amended to read:

257 ATCP 50. 28 **(2)** (b) 2. Obtain LWCB recommendations on the annual grant allocation plan, as required  
258 under s. 92.14 (6) (b) and (d), Stats. At least 30 days before the department obtains the LWCB's final  
259 recommendations, the department shall provide to DNR, the LWCB, and every county land conservation  
260 committee a copy of the draft plan on which the department seeks the LWCB's final recommendations and  
261 a copy of the draft environmental assessment written under ch. ATCP 3.02 (h) that accompanies the  
262 allocation plan.

263 **Section 62.** ATCP 50.28 (2) (b) 2. (Note) is repealed.

264 **SECTION 63.** ATCP 50.28 (2) (b) 3. is created to read:

265 ATCP 50.28 **(2)** (b) 3. If the department makes material revisions to the preliminary draft plan before  
266 seeking final LWCB recommendations, the department shall re-issue the revised draft at least 30 days  
267 before the LWCB makes its recommendations.

268 **SECTION 64.** ATCP 50.28 (3) (b) (Note) and (5) (a) 1. b. (Note) are repealed.

269 **SECTION 65.** ATCP 50.28 (5) (a) 2. is amended to read:

270 ATCP 50.28 **(5)** (a) 2. Increase the total grant to any county. The department shall give all counties notice  
271 and equal opportunity to compete for funding increases other than increases due to extensions under subd.  
272 1., voluntary transfers of ~~cost share~~ funds from one county to another county under subd. 5., and re-  
273 allocations of cost-share funds by the department under subd. 5. from a reserve established in the annual  
274 allocation plan. The department shall make any revisions in compliance with the requirements in par. (b).



275 **SECTION 66.** ATCP 50.28 (5) (a) 5. (Note) is repealed.

276 **SECTION 67.** ATCP 50.30 (2) (intro). is renumbered ATCP 50.30 (2) and amended to read:

277 ATCP 50.30 **(2)** STATEWIDE PRIORITIES. The department shall give priority to county or non-county  
278 projects that address statewide priorities identified by the department and DNR. ~~These priorities may~~  
279 ~~include:~~

280 **SECTION 68.** ATCP 50.30 (2) (a), (2) (a) (Note), (b), (c), (d), (e), (f), and (Note) are repealed.

281 **SECTION 69.** 50.32 (1) (Note), (2) (c) (Note), (3) (a) (Note), and (5) (a) (Note) are repealed.

282 **SECTION 70.** ATCP 50.32 (5) (am) is created to read:

283 ATCP 50.32 **(5)** (am) The department shall offer each county a minimum staffing grant, as specified in the  
284 annual grant application, subject to the availability of funds.

285 **SECTION 71.** ATCP 50.32 (6) (c) is amended to read:

286 ATCP 50.32 **(6)** (c) If a county redirects the unused portion of an annual staffing grant for ~~cost-share cost-~~  
287 ~~sharing payments~~ to landowners, as provided in sub. (11), the department shall reimburse the county for  
288 ~~cost-share~~ cost-sharing to landowners according to s. ATCP 50.34.

289 **SECTION 72.** ATCP 50.32 (7) (a) is amended to read:

290 ATCP 50.32 **(7)** (a) To obtain a reimbursement payment under sub. (6) (a), a county land conservation  
291 committee shall file a reimbursement request on the form provided by the department. A county may file a  
292 reimbursement request ~~on or after November 1 for costs incurred before November 1~~ upon incurring  
293 sufficient expenses. A county may file a second reimbursement request for costs not covered by the first  
294 request. A county may file no more than 2 reimbursement requests, and shall file all reimbursement requests  
295 by February 15 of the year following the grant year.

296 **SECTION 73.** ATCP 50.32 (7) (a) (Note) is repealed.

297 **SECTION 74.** ATCP 50.32 (7) (c) and (7) (d) (Note) are repealed.

298 **SECTION 75.** ATCP 50.32 (8) (a), (c) 1., and (d) are amended to read:

299 ATCP 50.32 (8) (a) The department shall reimburse eligible county costs for employee salaries, employee  
300 fringe benefits, and independent contractor fees ~~at the rate provided under s. 92.14, Stats~~ per the amount  
301 allocated under s. ATCP 50.28.

302 (c) 1. A county may choose which employees or independent contractors are considered the county's first,  
303 second, and subsequent staff persons. The county's first, second, and subsequent staff persons may differ  
304 from those identified in the grant application submitted under s. 50.26 (1).

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

311 **SECTION 76.** ATCP 50.32 (10) (Note) and (11) (b) (Note) are repealed.

312 **SECTION 77.** ATCP 50.34 (1) is amended to read:

313 ATCP 50.34 (1) GENERAL. The department may award an annual grant to each eligible county to ~~finance~~  
314 ~~county cost share grants~~ provide financial assistance to landowners. The department shall award the grant  
315 to the county land conservation committee. The committee may ~~make cost share grants~~ provide financial  
316 assistance to landowners for conservation practices needed to comply with any of the following:

317 **SECTION 78.** ATCP 50.34 (1) (d) (Note) and (2) (b) (Note) are repealed.

318 **SECTION 79.** ATCP 50.34 (3) (intro.) and (a) are amended to read:

319 ATCP 50.34 (3) GRANT PAYMENTS. The department shall make grant payments under sub. (1) on a  
320 reimbursement basis. The department shall reimburse the county after the county certifies that the ~~cost-~~  
321 ~~shared~~ conservation practice has been properly installed and paid for and contract terms are met. To obtain  
322 reimbursement ~~for a cost-shared practice,~~ a county land conservation committee shall do all of the following  
323 ~~on~~ that apply using forms provided by the department:

324 (a) File with the department a copy of the county's ~~cost-share~~ contract with the landowner and the supporting  
325 documentation specified in department forms to be submitted to obtain reimbursement. ~~The cost-share~~  
326 ~~contract~~ Cost-share contracts shall comply with s. ATCP 50.40 (8) and (9).

327 **SECTION 80.** ATCP 50.34 (3) (a) (Note) is repealed.

328 **SECTION 81.** ATCP 50.34 (3) (c) is amended to read:

329 (c) Certify, based on documentation possessed by the county, that all applicable conditions in s. ATCP  
330 50.40 (10) to (12) and (14) and 50.41 are met.

331 **SECTION 82.** ATCP 50.34 (3) (c) (Note) is repealed.

332 **SECTION 83.** ATCP 50.34 (3) (d) and (4) (a) 1. And 2. are amended to read:

333 (d) File all reimbursement requests; and required documentation such as cost-share contracts or other ~~and~~  
334 ~~supporting documentation~~ documents to show payment conditions are met by February 15 of the year  
335 following the grant year.

336 **(4)** (a) 1. To finance ~~cost-shared~~ conservation practices identified in subch. VIII, except that bond revenue  
337 funds may not be used to finance practices identified in s. ATCP 50.67, 50.68, 50.78, 50.79, 50.82, or 50.89.

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

340 **SECTION 84.** ATCP 50.34 (4) (a) 2. (Note) is repealed.

341 **SECTION 85.** ATCP 50.34 (4) (b) (Note) is repealed.

342 **SECTION 86.** ATCP 50.34 (5m) (intro), (5m) (b), (5m) (c), and (5m) (d) are amended to read:

343 ATCP 50.34 **(5m)** INTER-COUNTY TRANSFERS. The department may approve an agreement between  
344 counties to transfer uncommitted ~~bond revenue or other cost-share~~ grant funds if all of the following apply:

345 (b) The county transferring the ~~cost-share~~ grant funds certifies to the department that it has an uncommitted  
346 portion of its ~~cost-share~~ allocation equal to or greater than the transfer amount, and has approval of its land  
347 conservation committee to make these funds available for transfer.

348 (c) The county receiving the ~~cost-share~~ grant funds has made a commitment to use the transferred funds on  
349 one or more specific projects, and has the approval of its land conservation committee to accept the  
350 transferred funds for cost-sharing on the specific projects.

351 (d) The counties apply for the transfer of ~~cost-share~~ grant funds on a form provided by the department. The  
352 department may require any information on the form reasonably necessary for the department to approve  
353 the transfer of funds.

354 **Section 87.** ATCP 50.34 (5m) (d) (Note) is repealed.

355 **SECTION 88.** ATCP 50.34 (5m) (e) is created to read:

356 ATCP 50.34 **(5m)** (e) The grant funds being transferred were not part of their staffing allocation.

357 **SECTION 89.** ATCP 50.34 (6) (a) (intro.), 2. and 3. are amended to read:

358 ATCP 50.34 **(6)** (a) If a grant under sub. (1) funds a landowner ~~cost-share~~ contract that is signed by  
359 December 31 of the grant year but not completed by December 31 of that year, the department may extend  
360 funding for that contract in the next year's grant allocation to the county if all of the following apply:

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

362 3. The county land conservation committee files with the department, by December 31 of the initial grant  
363 year, a written request that identifies the ~~cost-shared~~ projects for which the extended funds will be used,  
364 and the total funds to be extended. The department may, for good cause, accept an extension request filed  
365 between December 31 of the initial grant year and February 15 of the subsequent grant year.

366 **SECTION 90.** ATCP 50.34 (6) (a) 3. (Note) and 4. (Note) are repealed.

367 **SECTION 91.** ATCP 50.34 (6) (b) is amended to read:

368 ATCP 50.34 **(6)** (b) A county may transfer a funding extension under par. (a) from one landowner cost-  
369 share contract to another provided that the department approves an extension of both projects. Extended  
370 bond funds may not be used on new cost-share contracts. Extended bond funding, if not spent for the  
371 designated cost-share contract in the year of the extension, remains with the department for distribution  
372 under a future year's allocation plan.

373 **SECTION 92.** ATCP 50.34. (6) (b) (Note) is repealed.

374 **SECTION 93.** ATCP 50.34 (7) (a) 1., and (7) (b) are amended to read:

375 **(7) (a) 1.** Copies of all county ~~cost share~~ contracts with landowners, including any provisions related to  
376 operation and maintenance of installed practices.

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

381 **SECTION 94.** ATCP 50.36 (1) (Note) and (2) (Note) are repealed.

382 **SECTION 95.** ATCP 50.36 (3) is renumbered ATCP 50.36 (3) (a):

383 ATCP 50.36 **(3) BREACH OF CONTRACT.** (a) The department may withhold or demand return of grant  
384 payments if the department finds that the grant recipient has violated this chapter or breached its grant  
385 contract with the department.

386 **SECTION 96.** ATCP 50.36 (3) (b) and (c) are created to read:

387 **(b)** The department may seek other administrative or judicial sanctions, as appropriate.

388 **(c)** A grant recipient may appeal an administrative sanction under this section to the extent provided under  
389 ch. 227, Stats.

390 **SECTION 97.** ATCP 50.36 (3) (Note) is repealed.

391 **SECTION 98.** ATCP 50 Subchapter V (title) is amended to read:

392 ATCP 50 Subchapter V ~~Cost Share Grants~~ Financial Assistance to Landowners

393 **SECTION 99.** ATCP 50.38 is created to read:

394 **ATCP 50.38 Financial assistance to landowners.**

395 **(1)** A county land conservation committee may use grant funds awarded to the county under s. ATCP  
396 50.34 or 50.35 to provide financial assistance to landowners.

397 **(2)** A county land conservation committee's authority to acquire and distribute grant funds from other

398 sources is not restricted by this subchapter.

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

400 (a) The landowners who will receive financial assistance.

401 (b) The conservation practices that will be eligible for financial assistance.

402 (c) The form of financial assistance.

403 (d) The costs for each conservation practice or conservation performance measure that will receive financial  
404 assistance

405 (e) The rate of financial assistance.

406 (4) No county employee or land conservation committee member may:

407 (a) Take any official action substantially affecting a matter which the individual, a member of their  
408 immediate family, or an organization with which the individual is associated has a substantial financial  
409 interest.

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

413 **SECTION 100.** ATCP 50.40 (1) (a) is renumbered ATCP 50.40 (1):

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

417 **SECTION 101.** ATCP 50.40 (1) (a) (Note) is amended to read:

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

421 ~~The department and DNR will prepare a joint allocation plan for the allocation of funds to counties under~~  
422 ~~ss. 92.14, 281.65, and 281.66, Stats. Funding under this chapter is primarily aimed at rural conservation~~

423 ~~practices. DNR may provide funding for urban conservation practices that are not financed under this~~  
424 ~~chapter.~~

425 **SECTION 102.** ATCP 50.40 (1) (b) and (Note) are repealed.

426 **SECTION 103.** ATCP 50.40 (2) (d) (Note), (3) (Note), (9) (j) (Note), (9) (L) (Note), and (9) (o) (Note) are  
427 repealed.

428 **SECTION 104.** ATCP 50.40 (10) (b) is amended to read:

429 ATCP 50.40 (10) (b) Installed in compliance with applicable construction site erosion control standards  
430 contained in the DNR Storm Water Construction Technical Standards, in effect on ~~May 1, 2014~~ June 1,  
431 2018.

432 **SECTION 105.** ATCP 50.40 (11) (b) 4. and (Note) are repealed.

433 **SECTION 106.** ATCP 50.40 (11) (b) 5. is created to read:

434 ATCP 50.40 (11) (b) (5) An architect registered under ch. 443, Stats., if the conservation engineering  
435 practice consists of a roof structure.

436 **SECTION 107.** ATCP 50.40 (14) (d) (Note) is repealed.

437 **SECTION 108.** ATCP 50.40 (14) (e) is created to read:

438 ATCP 50.40 (14) (e) Cost-share funds can be used to record any contract authorized under this chapter.

439 **SECTION 109.** ATCP 50.40 (16) (a) (Note), (b) (Note), and (c) (Note) are repealed.

440 **SECTION 110.** ATCP 50.40 (17) is amended to read:

441 ATCP 50.40 (17) **COMBINED GRANTS.** Cost-share grants under this chapter may be combined with grants  
442 from other federal, state, local, and private sources. Except as restricted under s. ATCP 50.42 (1),  
443 department funds allocated under this chapter may be combined with DNR funds allocated under s. 281.65  
444 or 281.66, Stats., to finance up to 70% of the total cost of a project, or up to 90% in cases of economic  
445 hardship under s. ATCP 50.42 (4). This subsection does not limit the use of ~~cost-share~~ cost-sharing or  
446 financial assistance from other sources, including other sources authorized under state law. A cost-share

447 grant under this chapter may not reimburse a landowner for any costs that another governmental entity is  
448 also reimbursing.

449 **SECTION 111.** ATCP 50.40 (17) (Note), (18) (Note), and (19) are repealed.

450 **SECTION 112.** ATCP 50.41 is created to read:

451 **ATCP 50.41 Other forms of financial assistance.**

452 **(1) OTHER FORMS OF FINANCIAL ASSISTANCE.** Counties may use funds granted under ss. ATCP 50.34 and  
453 50.35 to provide other forms of financial assistance to landowners, including any of the following:

454 (a) Incentive payments.

455 (b) Performance payments.

456 (c) Other payment types authorized by or not prohibited under state law.

457 **(2) PROHIBITED PAYMENTS.** The following uses of financial assistance provided under this subsection are  
458 prohibited:

459 (a) Costs or activities that have or will be reimbursed by any other source of governmental funding.

460 (b) Costs that will exceed 70% of the total cost of a project, or up to 90% in the cases of economic hardship  
461 for installation of a practice. This does not limit the use of financial assistance from other non-  
462 governmental sources.

463 (c) Activities prohibited under s. ATCP 50.40 (3) (b).

464 **(3) FINANCIAL ASSISTANCE CONTRACT.** Counties shall enter into a written contract with every landowner  
465 to whom the committee awards financial assistance not already covered under s. ATCP 50.40 (8).

466 **(4) FINANCIAL ASSISTANCE CONTRACT TERMS.** A contract under sub. (3) shall include all of the following:

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

468 (b) The purpose for the financial assistance.

469 (c) The rate or amount of financial assistance.

470 (d) A timetable for completing the contract requirements.

471 (e) The terms the landowner must meet to receive the financial assistance.



472 (f) An agreement that the landowner will repay the full amount of the financial assistance immediately,  
473 upon demand by the county land conservation committee, if the landowner fails to meet the terms of the  
474 contract.

475 (g) Provisions authorizing the county land conservation committee to withhold financial assistance if the  
476 committee finds that the landowner has breached the contract.

477 **(5) PAYMENT CONDITIONS MET.** Before a county land conservation committee requests any reimbursement  
478 from the department under ss. ATCP 50.34, 50.35, or 50.36, the committee shall document the landowner  
479 met the terms of the contract.

480 **Section 113.** ATCP 50.42 (title), (1), and (a) are amended to read:

481 **ATCP 50.42 Maximum ~~cost-share~~ rates.**

482 **(1) MAXIMUM-COST-SHARE RATES.**

483 (a) Except as provided under pars. (b) to (e), ~~cost-share payments funded~~ financial assistance under this  
484 chapter may not exceed 70% of the total eligible costs allowed under s. ATCP 50.40 (4) to install and  
485 maintain the conservation practice for the period specified in the ~~cost-share~~ grant contract. This paragraph  
486 does not limit the use of ~~cost-share funds~~ financial assistance from other sources, except when financial  
487 assistance provided under this chapter is combined with other government funds or from programs  
488 authorized by the state of Wisconsin the total funding from all government sources cannot exceed 100% of  
489 the project costs.

490 **Section 114.** ATCP 50.42 (1) (a) (Note) is repealed.

491 **Section 115.** ATCP 50.42 (1) (b) is amended to read:

492 (b) The maximum ~~cost-share~~ financial assistance rate under par. (a) is 90% if there is an economic hardship  
493 under sub. (4).

494 **Section 116.** ATCP 50.42 (1) (dg) is amended to read:

495 (dg) The cost-share payments for the following conservation practices may not exceed 50% of the total  
496 eligible costs to install and maintain the practice unless the landowner is required to install the practice to

497 achieve compliance with an agricultural performance standard ~~on cropland, pastures, or a livestock~~  
498 ~~operation~~ under ss. NR 151.02 to 151.08, in effect as of June 1, 2018:

499 1. Access roads under s. ATCP 50.65.

500 2. Roof runoff systems under s. ATCP 50.85.

501 3. Streambank or shoreline protection under s. ATCP 50.88.

502 4. Stream crossing under s. ATCP 50.885.

503 5. Wetland development or restoration under s. ATCP 50.98.

504 **Section 117.** ATCP 50.42 (1) (dr) (Note) is repealed.

505 **Section 118.** ATCP 50.42 (1) (e) (Note) is repealed.

506 **SECTION 119.** ATCP 50.42 (2) is repealed and recreated to read:

507 ATCP 50.42 (2) CROPPING PRACTICES; MAXIMUM AMOUNTS. A county land conservation committee may  
508 pay up to the following amounts for the installation or maintenance of the following cropping practices:

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

510 (b) For cover crops,

511 1. \$60 per acre per year for single species where termination is required.

512 2. \$35 per acre per year for single species where termination is not required.

513 3. \$75 per acre per year for multi-species with two or more species.

514 (c) For stripcropping, \$13.50 per acre.

515 (d) For residue management systems, no-till or strip till systems, \$18.50 per acre per year.

516 (e) For nutrient management, \$10 per acre per year for new nutrient management plan development, and  
517 \$5 per acre for a one-time nutrient management plan update prior to April 1, 2027 in areas impacted by the  
518 Silurian bedrock performance standards outlined in s. NR 151.075.

519 (f) For conservation crop rotation, \$10 per acre per year.

520 (g) For harvestable buffers, annual per-acre financial assistance shall not exceed the average soil rental rate  
521 for the county set by the United States department of agriculture during the most recent sign-up for the

522 Conservation Reserve Program.

523 **Note:** For current soil rental rates, see USDA-Farm Service Agency Conservation Reserve Program  
524 statistics at [www.fsa.usda.gov](http://www.fsa.usda.gov)

525 **SECTION 120.** ATCP 50.42 (5) (Note) is repealed.

526 **SECTION 121.** ATCP 50.46 (1) (a) 1. (Note) and (1) (b) (Note) are repealed.

527 **SECTION 122.** ATCP 50.46 (1) (d) and (2) are amended to read:

528 ATCP 50.46 (1) (d) Notwithstanding par. (c), a well driller or pump installer registered under s. 280.15,  
529 Stats., may certify a well construction or decommissioning under ~~sub. (1)~~this subsection and an architect  
530 registered under ch. 443, Stats., may certify a roof under this subsection.

531 (2) CONSERVATION ENGINEERING PRACTICES. For purposes of this section, a conservation engineering  
532 practice includes any of those practices identified in subch. VIII, authorized by the department under s.  
533 ATCP 50.40 (3), allowed under s. 281.65, Stats., or approved and published, as part of the NRCS field  
534 office technical guide or as a formal technical standard by the DNR.

535 **SECTION 123.** ATCP 50.46 (2m) (b) (Note) and (3) (a) (Note) are repealed.

536 **SECTION 124.** ATCP 50.46 (5) (a) 2. is amended to read:

537 ATCP 50.46 (5) (a) 2. Certify that design specifications for jobs in that class comply with those identified  
538 in subch. VIII, authorized by the department under s. ATCP 50.40 (3), allowed by s. 281.65, Stats., or  
539 approved and published, as part of the NRCS field office technical guide or as a formal technical standard  
540 by the DNR.

541 **SECTION 125.** ATCP 50.46 (5) (a) 3. (Note) and (5) (b) is repealed.

542 **SECTION 126.** ATCP 50.46 (5) (c) is created to read:

543 ATCP 50.46 (5) (c) In cases where department field engineers may be required to provide a job certification  
544 approval level at a level higher than their own, they should consult with a person who has appropriate  
545 certification levels in the areas being rated. A person who is certified at a job level under par. (a) may certify  
546 their own work at that level for any purpose including funding authorized under this chapter.

547 **SECTION 127.** ATCP 50.46 (7) (c), (8) (a) and (c), (9) (c) 1., and (11) (b) are amended to read:

548 ATCP 50.46 (7) (c) A field engineer shall document, in writing, ~~his or her~~ the field engineer's ~~their~~ reasons  
549 for reducing a certification rating under sub. (5), or for refusing to make a requested rating change. The  
550 field engineer shall provide that documentation to the person rated, and to that person's supervisor if any.

551 (8) (a) An affected person may appeal a field engineer's action under sub. (5), (6) or (7). The affected person  
552 shall file ~~his or her~~ that person's ~~their~~ appeal in writing, with the field engineer, within 10 business days  
553 after the applicant receives notice of the field engineer's action. The appeal shall identify the specific matters  
554 in dispute and the specific basis for the appeal.

555 (c) If an appeal cannot be resolved after an informal meeting under par. (b), the field engineer shall forward  
556 the appeal to a department reviewer designated by the administrator of the department's agricultural  
557 resource management division. The reviewer shall hold an informal hearing on the appeal within 10  
558 business days after the reviewer receives the appeal, unless the applicant agrees to a later date for the  
559 informal hearing. The reviewer shall hold the informal hearing by telephone or at a location determined by  
560 the reviewer. Within 10 business days after the conclusion of the informal hearing, the reviewer shall issue  
561 a written decision which affirms, reverses, or modifies the field engineer's action. The reviewer shall  
562 provide a copy of ~~his or her~~ the reviewer's ~~self~~ written decision to the applicant. The decision shall include  
563 a notice of the applicant's right to request a contested case hearing under par. (d).

564 (9) (c) 1. Any land conservation committee, ~~or~~ state agency, or federal agency that employs the individual  
565 whose certification is suspended or revoked.

566 (11) (b) Any engineered practice designed by a person certified under this section shall include project  
567 documentation establishing that the practice was designed according to applicable standards, and that the  
568 design was reviewed and approved for compliance with those standards. Any person approving a design  
569 shall have job approval authority at the level required by the engineered practice. For practices requiring a  
570 job class authority of III or higher, at least one person other than the practice designer shall review and sign

571 ~~approve~~ the design as being checked before the design can be approved. For practices requiring job class  
572 authority of I or II, the person preparing the design may also review and approve the design.

573 **SECTION 128.** ATCP 50.48 (1) (a), (2) (a) 4., (2) (c) (Note), and (4) ~~-are~~ amended to read:

574 ATCP 50.48 (1) (a) Compliance with the NRCS ~~technical guide~~ conservation practice standard 590.

575 (2) (a) 4. The holder of other credentials that the department deems equivalent to those specified under  
576 subs. 1. to 3. A landowner is presumptively qualified to prepare a nutrient management plan for ~~his or her~~

577 that landowner's their farm, but not for others, if the landowner completes a department-approved training  
578 course that results in a nutrient management plan in compliance with s. ATCP 50.04 (3) and the course

579 instructor approves the landowner's first annual plan. The landowner shall complete a department-approved

580 training course at least once every 4 years to maintain ~~his or her~~ that landowner's their presumptive

581 qualification. The course instructor is not required to hold credentials listed in subs. 1. to 3., but ~~he or she~~

582 they the instructor must be knowledgeable and competent in accordance with sub. (1).

583 (c) **Note:** The department does not affirmatively certify nutrient management planners. A nutrient  
584 management planner who meets all of the requirements under sub. (2) may represent privately or publicly

585 himself or herself themselves as a qualified nutrient planner, without any certificate from the department.

586 A person qualified only to prepare ~~his or her~~ their that person's own nutrient management plan under sub.

587 (2) (a) 4. may not misrepresent that ~~he or she is~~ the person is they are qualified to prepare nutrient

588 management plans for others.

589 (4) **DISQUALIFICATION.** The department may issue a written notice to an individual, declaring that the  
590 individual is not a qualified nutrient management planner under this section. The notice shall specify the

591 basis for the department's declaration. The department may disqualify a nutrient management planner if the

592 planner violates or fails to provide reasonable documentation of compliance with sub. (3) or lacks

593 qualifications required under sub. (1). A person who is named in a disqualification notice under this

594 subsection may request a contested case hearing under s. 227.42, Stats., and ch. ATCP 1.

595 **SECTION 129.** ATCP 50.48 (4) (Note) is repealed.

596 **SECTION 130.** ATCP 50.48 (6) is renumbered to ATCP 50.48 (6) (intro.) and amended to read:

597 **(6) RECORDS.** A qualified nutrient management planner shall keep copies of all nutrient management plans  
598 that the qualified nutrient management planner prepares or approves for funding under ~~sss. 92.14 or 281.65~~  
599 ~~or 281.66, Stats., or this chapter~~ for a landowner claiming farmland preservation tax credits under s. 71.613,  
600 Stats. The qualified nutrient management planner shall retain the records for at least 4 years, and shall make  
601 them available for inspection and copying by the department or its agent upon request. The qualified  
602 nutrient management planner under s. ATCP 50.48 (3) shall complete the nutrient management checklist  
603 form provided by the department. The qualified nutrient management planner shall have reasonable  
604 documentation to substantiate each checklist response. ~~The qualified nutrient management planner and~~ shall  
605 provide it to the department or its agent upon request and in a format that allows for determination of  
606 compliance with s. ATCP 50.04 (3). Minimum documentation requirements are outlined in NRCS  
607 conservation practice standard 590 nutrient management (December 2015) and Wisconsin Conservation  
608 Planning Technical Note WI-1 (February, 2016) and include:

609 **SECTION 131.** ATCP 50.48 (6) (a), (b), (c) and (Note) are created to read:

610 ATCP 50.48 **(6)** (a) Narrative summarizing the farms implementation and operation of the nutrient  
611 management plan.

612 (b) Maps of the farm identifying fields, soils, and spreading restrictions and prohibitions.

613 (c) Crop, field, and nutrient information, such as crop rotation, tillage, soil nutrient levels and nutrient  
614 applications.

615 **Note:** An example of reasonable documentation for substantiating checklist responses and determining  
616 compliance is a database file from nutrient management planning software.

617 **SECTION 132.** ATCP 50.50 (1) (Note) is repealed.

618 **SECTION 133.** ATCP 50.50 (2) (d) 5. (Note) is amended to read:

619 ATCP 50.50 **(2)** (d) 5. **Note:** Copies of the Nutrient Application Guidelines for Field, Vegetable, and Fruit  
620 Crops in Wisconsin. *UWEX Publication A2809* (2012) and the *Wisconsin Procedures for Soil Testing, Plant*

621 *Analysis and Feed & Forage Analysis, Soil Fertility Series* (October, 2013) are on file at the department  
622 and legislative reference bureau. To obtain a copy of the A2809, see s. ATCP 50.04 (3) (f) 4. (note). Copies  
623 of the Wisconsin Procedures publication are available at the University of Wisconsin website at:  
624 ~~<http://uwlab.soils.wisc.edu/lab-procedures>~~ [626 \*\*SECTION 134.\*\* ATCP 50.50 \(7\) \(b\) \(Note\) is repealed.](https://uwlab.soils.wisc.edu/about-us/lab-procedures-and-<br/>625 <u>methods/</u></a>.</p></div><div data-bbox=)

627 **SECTION 135.** ATCP 50.50 (7) (c) is created to read:

628 ATCP 50.50 (7) (c) A laboratory operator may request a contested case hearing under s. 227.42, Stats. and  
629 ch. ATCP 1 on the department's action under this subsection.

630 **SECTION 136.** ATCP 50.50 (8) (c) (Note) is repealed.

631 **SECTION 137.** ATCP 50.52 (1) (f) (Note) and (g) (Note) is repealed.

632 **SECTION 138.** ATCP 50.52 (2) (c) is amended to read:

633 ATCP 50.52 (2) (c) The University of Wisconsin-Madison, Division of Extension.

634 **SECTION 139.** ATCP 50.54 (1) (Note) is amended to read:

635 ATCP 50.54 (1) **Note:** ~~"Local regulations" are defined in s. ATCP 50.01 (18).~~ Local conservation  
636 requirements should be consistent with this chapter (see ss. 92.05 (1), (3) (c) and (L), 92.07 (2), 92.11,  
637 92.15 (2) to (4), 92.16, 92.17, 93.90, and 281.16 (3), Stats.). ~~The department may review and comment on~~  
638 ~~local regulations, as it deems necessary. See specific requirements related to manure storage ordinances (s.~~  
639 ~~ATCP 50.56), agricultural shoreland management ordinances (s. ATCP 50.58), and livestock ordinances~~  
640 ~~(s. ATCP 50.60).~~ A local regulation may not require a livestock operator to obtain a license or permit for a  
641 new or expanding livestock operation, except as specifically authorized under s. 93.90, Stats., and ch. ATCP  
642 51. When exercising their approval authority under the livestock facility siting law, political subdivisions  
643 ~~are~~ may be limited in their application of local manure storage ordinances adopted under s. 92.16, Stats.,  
644 and s. ATCP 50.56. (See ~~s. ATCP 51.18 (6) (Note)~~ s. ATCP 51.10 (1)).

645 **SECTION 140.** ATCP 50.56 (2) (c) (Note), (3) (b) 2. (Note 1), and (3) (b) 3. (Note) are repealed.

646 **SECTION 141.** ATCP 50.56 (3) (b) 4. (intro.), a., b., and c., (4) (a) and (4) (a) (Note) are amended to read:  
647 ATCP 50.56 (3) (b) 4. Require consistency with state performance standards and prohibitions, and require  
648 construction in accordance with ~~technical~~ conservation practice standards including all of the following:  
649 a. NRCS ~~technical guide~~ conservation practice standard 313 waste storage facility ~~standard 313~~ (January,  
650 2014 ~~October, 2017~~).

651 b. NRCS ~~technical guide~~ conservation practice standard 634 waste transfer ~~standard 634~~ (January, 2014  
652 November, 2022).

653 c. Other applicable NRCS ~~technical guide~~ conservation practice standards.

654 (4) (a) Submits a closure plan for approval by the county, city, village, or town. The closure plan shall  
655 comply with the waste facility closure provisions contained in the NRCS ~~technical guide, closure of waste~~  
656 ~~impoundments standard 360~~ conservation practice standard 360 waste facility closure (March, 2013 ~~June,~~  
657 2021).

658 **Note:** The NRCS ~~technical guide~~ conservation practice standard 360 is on file with the department and the  
659 legislative reference bureau.

660 **SECTION 142.** ATCP 50.56 (4) (c) (Note) is repealed.

661 **SECTION 143.** ATCP 50.56 (6) (intro) is renumbered ATCP 50.56 (6) and amended to read:  
662 ATCP 50.56 (6) DEPARTMENT OVERSIGHT. The department may require a county, city, village, or town to  
663 ~~do either of the following~~ submit a proposed or adopted ordinance to the department for review to determine  
664 consistency with this chapter in connection with the administration of an ordinance under s. 92.16, Stats.:  
665 The department may ask the county, city, village, or town for information that it needs to perform the  
666 review.

667 **SECTION 144.** ATCP 50.56 (6) (a) and (b) are repealed.

668 **SECTION 145.** ATCP 50.60 (2) (b) (Note) is repealed.

669 **SECTION 146.** ATCP Subchapter VIII (title) and (Note) are amended to read:  
670 **ATCP Subchapter VIII — Standards for ~~Cost-Shared Practices~~ Receiving Financial Assistance**



671 **Note:** For information on how to obtain NRCS ~~technical guide~~ conservation practice standards and any  
672 other standards required under this subchapter, including any secondary standards incorporated by reference  
673 in those standards, a person may visit the department website at:  
674 [https://datcp.wi.gov/Pages/Programs\\_Services/ATCP50.aspx](https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx), or contact the department in writing at the  
675 following address:

676 Wisconsin Department of Agriculture, Trade and Consumer Protection  
677 Division of Agricultural Resource Management  
678 P.O. Box 8911  
679 Madison, WI 53708-8911

680 **SECTION 147.** ATCP 50.61 (title) and (1) is amended to read:

681 **ATCP 50.61 General standards for ~~cost-shared~~ practices receiving financial assistance; pre-approval**  
682 **of cost-shared practices.**

683 ATCP 50.61 (1) ~~COST-SHARED PRACTICES MUST COMPLY.~~ Except as authorized under sub. (3), ~~cost-shared~~  
684 conservation practices under this chapter practice standards and any other standards under this chapter,  
685 including any secondary standards incorporated by reference in those standards shall comply with  
686 applicable standards under this subchapter.

687 **SECTION 148.** ATCP 50.61 (2) (Note) is repealed.

688 **SECTION 149.** ATCP 50.61 (3) (intro.), (a), and (b) are amended to read:

689 ATCP 50.61 (3) Voluntary use of updated technical standards. The department may authorize a county to  
690 provide a ~~cost share grant~~ financial assistance for a conservation practice to be implemented under the  
691 updated version of a technical or conservation practice standard listed in this subchapter. The county may  
692 provide a ~~cost share grant~~ financial assistance for the conservation practice using the updated ~~technical~~  
693 standard if all of the following apply:

694 (a) The updated ~~technical~~ standard provides conservation benefits at least as beneficial as the version listed  
695 in this subchapter.

696 (b) The updated ~~technical~~ standard has been adopted by NRCS, DNR, the department, or the applicable  
697 ~~technical standards~~ entity listed in this subchapter.

698 **SECTION 150.** ATCP 50.61 (4) (c) (Note) is repealed.

699 **SECTION 151.** ATCP 50.618 is created to read:

700 **ATCP 50.618: Technical standards development process.**

701 (a) The department, in consultation with the department of natural resources, shall develop and revise  
702 technical standards to implement the performance standards and prohibitions under s. 281.16 (3) (a),  
703 Stats., if needed.

704 (b) The department may decide that the following is necessary to implement a performance standard:

705 1. Develop a new technical standard for which the department will be the custodian.

706 2. Revise an existing technical standard for which the department is the custodian.

707 (c) The department shall use the process used by the standards oversight council, or other inter-disciplinary  
708 team, when it acts to develop or revise technical standards for which it is the custodian. The process  
709 shall include the following:

710 1. The department shall convene a work group that includes agencies and persons with technical expertise  
711 and direct policy interest.

712 2. The work group shall publish a class 1 public notice and consider public comments received on the  
713 technical standard prior to providing recommendations to the department.

714 3. The work group shall provide a recommended technical standard to the department.

715 (d) Review and approval of technical standards.

716 1. Upon receipt of a recommended technical standard or technical standard revision, the department  
717 shall determine if the technical standard will effectively achieve or contribute to achievement of the  
718 performance standards under s. 281.16 (3) (a), Stats.

719 2. If the department determines that a recommended technical standard will not adequately or effectively  
720 implement a performance standard under s. 281.16 (3) (a), Stats., the recommended technical

721 standard may not be used to implement a performance standard in whole or in part.

722 **SECTION 152.** ATCP 50.62 (3) (d) is amended to read:

723 ATCP 50.62 (3) (d) Any manure storage system costs related to an animal feeding operation if all of the  
724 manure from that operation could be applied to land according to the NRCS ~~technical guide~~ conservation  
725 practice standard 590 nutrient management ~~standard 590~~ (December, 2015) without causing or aggravating  
726 nonattainment of water quality standards.

727 **SECTION 153.** ATCP 50.62 (3) (d) (Note) is repealed.

728 **SECTION 154.** ATCP 50.62 (5) (e) 1., 2., 3., 4., 5., 6. 7. and 8 are amended to read:

729 ATCP 50.62 (5) (e) The system complies with all of the following that apply:

730 1. NRCS ~~technical guide~~ conservation practice standard 313 waste storage facility ~~standard 313~~ (January,  
731 ~~2014~~ October, 2017).

732 2. NRCS ~~technical guide~~ conservation practice standard 634 waste transfer ~~standard 634~~ (January, 2014  
733 November, 2022).

734 3. NRCS ~~technical guide~~ conservation practice standard 351 well decommissioning ~~standard 351~~ (October,  
735 ~~2014~~ August, 2021).

736 4. NRCS ~~technical guide~~ conservation practice standard 382 fence ~~standard 382~~ (January, 2014).

737 5. NRCS ~~technical guide~~ conservation practice standard 561 heavy use area protection ~~standard 561~~  
738 (~~August, 2015~~ November 2022).

739 6. NRCS ~~technical guide~~ conservation practice standard 520 pond sealing or lining — ~~flexible membrane~~  
740 ~~standard 521A~~ compacted soil treatment (~~September, 2012~~ October, 2017).

741 7. NRCS ~~technical guide~~ conservation practice standard 521 pond sealing or lining — ~~bentonite sealant~~  
742 ~~standard 521C~~ geomembrane or geosynthetic clay liner (January, 2011 ~~October, 2017~~).

743 8. NRCS ~~technical guide~~ conservation practice standard 522 pond sealing or lining — ~~compacted clay~~  
744 ~~treatment standard 521D~~ concrete (~~September, 2012~~ June, 2021).

745 **SECTION 155.** ATCP 50.62 (5) (em) 1. is amended to read:

746 ATCP 50.62 (em) 1. The landowner is responsible, at ~~his or her~~ the landowner's their own cost, for  
747 construction of any additional storage necessary to maintain the same number of days of storage capacity  
748 if the landowner's nutrient management plan cannot be modified to allow for land spreading of the  
749 additional manure from the expanded livestock operation.

750 **SECTION 156.** ATCP 50.62 (f) (Note) is repealed.

751 **SECTION 157.** ATCP 50.62 (5) (f) 1. and 2. are created to read:

752 ATCP 50.62 (5) (f) 1. The landowner must provide to the county a completed nutrient management  
753 checklist to receive cost-share payment for this practice

754 2. The landowner must provide an updated checklist for each year of the maintenance period.

755 **SECTION 158.** ATCP 50.63 (5) is amended to read:

756 ATCP 50.63 (5) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40  
757 may not reimburse any costs related to the closure of a manure storage system unless the closure plan  
758 complies with NRCS conservation practice standard 360 waste facility closure ~~standard 360~~ (March, 2013  
759 June, 2021).

760 **SECTION 159.** ATCP 50.64 (1) (e) is amended to read:

761 ATCP 50.64 (1) (e) Heavy use area protection described in NRCS ~~technical guide~~ conservation practice  
762 standard 561 heavy use area protection ~~standard 561~~ (August, 2015 November, 2022).

763 **SECTION 160.** ATCP 50.64 (1) (v) (Note) is repealed.

764 **SECTION 161.** ATCP 50.64 (5) (a) is amended to read:

765 ATCP 50.64 (5) (a) The system complies with applicable design, construction, and maintenance standards  
766 under this subchapter and NRCS ~~technical guide~~ conservation practice standard 561 heavy use area  
767 protection ~~standard 561~~ (August, 2015 November, 2022).

768 **SECTION 162.** ATCP 50.64 (5) (c) (Note) is repealed.

769 **SECTION 163.** ATCP 50.64 (5) (d) is created to read:

770 ATCP 50.64 (5) (d) The system complies with one or more of the practices listed in sub. (1) as appropriate.

771 Standards for the listed practices are contained in other sections of this subchapter.

772 **SECTION 164.** ATCP 50.65 (3) (a) 1. and 2. are amended to read:

773 ATCP 50.65 (3) (a) 1. NRCS ~~technical guide~~ conservation practice standard 560 access road ~~standard 560~~

774 (~~October, 2014~~ August, 2021).

775 2. NRCS ~~technical guide~~ conservation practice standard 580 streambank and shoreline protection ~~standard~~

776 ~~580~~ (~~August, 2013~~ September, 2021).

777 **SECTION 165.** ATCP 50.65 (3) (a) (Note) is repealed.

778 **SECTION 166.** ATCP 50.65 (3) (a) 3. is created to read:

779 ATCP 50.65 (3) (a) 3. Section ATCP 50.885 when an access road crosses a stream.

780 **SECTION 167.** ATCP 50.66 (3) (a) 1., 2., and 3. are amended to read:

781 ATCP 50.66 (3) (a) 1. NRCS ~~technical guide~~ conservation practice standard 575 trails and walkways

782 ~~standard 575~~ (~~April, 2016~~ August, 2021).

783 2. NRCS ~~technical guide~~ conservation practice standard 580 streambank and shoreline protection ~~standard~~

784 ~~580~~ (~~August, 2013~~ September, 2021).

785 3. NRCS ~~technical guide~~ conservation practice standard 382 fence ~~standard 382~~ (January, 2014).

786 **Section 168.** ATCP 50.66 (3) (a) (Note) is repealed.

787 **SECTION 169.** ATCP 50.66 (3) (a) 4. is created to read:

788 ATCP 50.66 (3) (a) 4. Section ATCP 50.885 when a trail or walkway crosses a stream.

789 **SECTION 170.** ATCP 50.663 is created to read:

790 **ATCP 50.663 Conservation cover.**

791 **(1) DEFINITION.** In this section, “conservation cover” refers to the establishment and maintenance of

792 permanent vegetative cover in an agricultural setting to reduce erosion and sedimentation, improve water

793 quality, and improve soil health.

794 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs:

795 (a) The cost of fencing to protect the planted vegetation.

796 (b) The cost to establish and manage conservation cover, or to provide temporary cover until the planting  
797 is established. This may include costs for mulch, seed, and other necessary materials.

798 (c) The cost to shape, smooth, or prepare the site before establishing vegetative cover.

799 **(3) INELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may not reimburse any of the following for  
800 conservation cover:

801 (a) Critical area plantings.

802 (b) Whole-field conversion.

803 (c) Pasture plantings.

804 **(4) DESIGN, CONSTRUCTION, AND MAINTENANCE.** A cost-share grant under s. ATCP 50.40 may not  
805 reimburse conservation cover costs unless all of the following conditions are met:

806 (a) The conservation cover practices comply with all of the following that apply:

807 1. NRCS conservation practice standard 327 conservation cover (January, 2013).

808 2. NRCS conservation practice standard 472 access control (January, 2018).

809 3. NRCS conservation practice standard 382 fence (January, 2014).

810 4. NRCS conservation practice standard 315 herbaceous weed treatment (June 2016).

811 (b) Following establishment of vegetative cover, management of cover complies with all of the following  
812 that apply:

813 1. NRCS conservation practice standard prescribed burning 338 (March 2016).

814 2. NRCS conservation practice standard brush management 314 (April 2017).

815 3. NRCS conservation practice standard prescribed grazing standard 528 (April, 2017).

816 4. Guidelines specified in "Pastures for Profit: A Guide to Rotational Grazing," published by the University  
817 of Wisconsin Extension (2014).

818 (c) The landowner agrees to maintain the vegetative cover for 10 years.

819 **SECTION 171.** ATCP 50.668 is created to read:

820 **ATCP 50.668 Conservation crop rotation.**

821 **(1) DEFINITION.** In this section, "conservation crop rotation" means a planned sequence of crops grown on  
822 the same ground over a period of time known as the rotation cycle to support one or more of the following  
823 purposes:

824 (a) Reduce sheet, rill, and wind erosion.

825 (b) Provide increases to soil health indicators and soil organic matter content.

826 (c) Protect water quality from excess nutrients.

827 (d) Improve efficiency of irrigation water use.

828 (e) Reduce plant pest pressures.

829 (f) Provide or increase forage supply during periods of low forage production or to extend the grazing  
830 season.

831 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse for years where a crop rotation  
832 was diversified.

833 (a) Diversification may include any of the following:

834 1. Cover crops.

835 2. Small grains.

836 3. Perennial crops.

837 4. Livestock integration.

838 5. Other innovative practices approved by the department.

839 **(3) INELIGIBLE COSTS.** A cost-share grant may not reimburse costs for land in permanent cover or years of  
840 a rotation following the establishment of a perennial crop.

841 **(4) DESIGN, CONSTRUCTION, AND MAINTENANCE.** A cost-share grant under s. ATCP 50.40 may not  
842 reimburse any costs to establish a conservation crop rotation unless all of the following apply:

843 (a) The conservation crop rotation meets NRCS conservation practice standard 328 conservation crop  
844 rotation (September, 2015).

845 (b) The conservation crop rotation complies with all of the following that apply:

846 1. NRCS conservation practice standard 340 cover crop (August, 2015).

847 2. NRCS conservation practice standard 590 nutrient management (December, 2015).

848 3. NRCS conservation practice standard 595 pest management conservation system (January, 2022).

849 4. NRCS conservation practice standard 528 prescribed grazing (April, 2017).

850 5. NRCS conservation practice standard 329 residue and tillage management, no till (January, 2018).

851 6. NRCS conservation practice standard 585 stripcropping (June, 2016).

852 (c) The landowner agrees to maintain conservation crop rotation for a minimum of 3 years or the duration

853 of cost share, whichever is longer.

854 **SECTION 172.** ATCP 50.67 (3) (a), (b), and (c) are amended to read:

855 ATCP 50.67 (3) (a) NRCS ~~technical guide~~ conservation practice 330 contour farming ~~standard 330~~ (March,

856 2016).

857 (b) NRCS ~~technical guide~~ conservation practice 500 obstruction removal ~~standard 500~~ (July, 2016 June,

858 2021).

859 (c) NRCS ~~technical guide~~ conservation practice 420 upland wildlife habitat ~~management standard 645~~

860 planting (January, 2013 June, 2020), if habitat management is used to mitigate the loss of habitat resulting

861 from the installation of contour farming.

862 **SECTION 173.** ATCP 50.67 (3) (d) and (e) are created to read:

863 ATCP 50.67 (3) (d) NRCS conservation practice standard 332 contour buffer strips (July, 2016).

864 (e) The landowner agrees to maintain the contour farming system for each cropping season for which cost-

865 sharing is provided.

866 **SECTION 174.** ATCP 50.68 (1), (a), (b), and (c) are amended to read:

867 ATCP 50.68 (1) DEFINITION. In this section, "~~cropland cover~~ cover crop" means close-growing grasses,

868 legumes, or small grain grown for any of the following purposes:

869 (a) To control soil erosion ~~during periods when major crops do not furnish adequate cover.~~

870 (b) To ~~add organic matter to the soil~~ improve soil health.

871 (c) To improve ~~soil infiltration, aeration, or tith~~ water quality.



872 **SECTION 175.** ATCP 50.68 (1) (d) is created to read:

873 ATCP 50.68 (1) (d) To manage excess nutrients in the soil.

874 **SECTION 176.** ATCP 50.68 (2) is amended to read:

875 ATCP 50.68 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse costs to establish  
876 ~~cropland cover on a field that contributes to water quality degradation when crop harvesting during the~~  
877 ~~growing season leaves the field without enough residue to provide adequate surface runoff protection cover~~  
878 crops on an agricultural field.

879 **SECTION 177.** ATCP 50.68 (3) is repealed.

880 **SECTION 178.** ATCP 50.68 (4), and (4) (a) are amended to read:

881 ATCP 50.68 (4) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40  
882 may not reimburse any costs to establish ~~cropland~~ a cover crop unless all of the following apply:

883 (a) The ~~cropland~~ cover meets NRCS ~~technical guide~~ conservation practice standard 340 cover crop  
884 ~~standard 340~~ (August, 2015).

885 **SECTION 179.** ATCP 50.69 (4) (a) 1., 2., 3., 4., 5., 6., and 7. are amended to read:

886 ATCP 50.69 (4) (a) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting  
887 ~~standard 342~~ (~~August, 2016~~ January, 2018).

888 2. NRCS ~~technical guide~~ conservation practice standard 382 fence ~~standard 382~~ (January, 2014).

889 3. NRCS ~~technical guide~~ conservation practice standard 386 field border ~~standard 386~~ (January, 2017).

890 4. NRCS ~~technical guide~~ conservation practice standard 472 access control ~~standard 472~~ (~~April, 2016~~  
891 January, 2018).

892 5. NRCS ~~technical guide~~ conservation practice standard 484 mulching ~~standard 484~~ (June, 2016).

893 6. NRCS ~~technical guide~~ conservation practice standard 612 tree/shrub establishment ~~standard 612~~ (~~July,~~  
894 ~~2014~~ January, 2018).

895 7. NRCS ~~technical guide~~ conservation practice standard 527 sinkhole treatment ~~standard 527~~ (~~March, 2016~~  
896 September, 2021).

897 **SECTION 180.** ATCP 50.70 (1) and (4) (b) 1., 2., 3., 4., 5., 6., 7., 8., and 9. are amended to read:

898 ATCP 50.70 (1) DEFINITION. In this section, "diversion" means a structure installed to divert excess surface  
899 runoff water to an area where it can be used, transported, or discharged without causing excessive soil  
900 erosion. A "diversion" can also be used to divert surface runoff water around farmsteads or agricultural  
901 waste systems to prevent water from becoming contaminated runoff, or both. "Diversion" includes a  
902 channel with a supporting earthen ridge on the lower side, installed across the slope with a self-discharging  
903 and non-erosive gradient.

904 (4) (b) 1. NRCS ~~technical guide conservation practice standard 342~~ critical area planting ~~standard 342~~  
905 (~~August, 2016~~ January, 2018).

906 2. NRCS ~~technical guide conservation practice standard 362~~ diversion ~~standard 362~~ (August, 2016).

907 3. NRCS ~~technical guide conservation practice standard 382~~ fence ~~standard 382~~ (January, 2014).

908 4. NRCS ~~technical guide conservation practice standard 412~~ grassed waterway ~~standard 412~~ (July, 2016  
909 August, 2021).

910 5. NRCS ~~technical guide conservation practice standard 468~~ lined waterway or outlet ~~standard 468~~ (March,  
911 ~~2013~~ June, 2021).

912 6. NRCS ~~technical guide conservation practice standard 500~~ obstruction removal ~~standard 500~~ (July, 2016  
913 June, 2021).

914 7. NRCS ~~technical guide conservation practice standard 606~~ subsurface drain ~~standard 606~~ (March, 2014  
915 June, 2021).

916 8. NRCS ~~technical guide conservation practice standard 620~~ underground outlet ~~standard 620~~ (March, 2014  
917 June, 2021).

918 9. NRCS ~~technical guide conservation practice standard 645~~ upland wildlife habitat management ~~standard~~  
919 ~~645~~ (January, 2013).

920 **SECTION 181.** ATCP 50.705 (3) (d) and (5) (a) 1., 2., 3., 4., 5., 6., and 7. are amended to read:

921 ATCP 50.705 (3) (d) A non-permanent storage area allowed under NRCS ~~technical guide waste treatment~~

922 ~~standard 629~~ conservation practice standard 561 heavy use area protection (January, 2014 November,  
923 2022).

924 ATCP 50.705 (5) (a) 1. NRCS ~~technical guide~~ conservation practice standard 313 waste storage facility  
925 ~~standard 313~~ (January, 2014 October, 2017).

926 2. NRCS ~~technical guide~~ ~~waste treatment standard 629~~ conservation practice standard 561 heavy use area  
927 protection (January, 2014 November, 2022).

928 3. NRCS ~~technical guide~~ conservation practice standard 634 waste transfer ~~standard 634~~ (January, 2014  
929 November, 2022).

930 4. NRCS ~~technical guide~~ conservation practice standard 635 vegetated treatment area ~~standard 635~~  
931 (~~October, 2014~~ September, 2016).

932 5. NRCS ~~technical guide~~ conservation practice standard constructed wetland 656 ~~restoration standard 656~~  
933 (~~September, 2016~~ December, 2016).

934 6. NRCS ~~technical guide~~ conservation practice standard 590 nutrient management ~~standard 590~~ (December,  
935 2015).

936 7. NRCS ~~technical guide~~ conservation practice standard 362 diversion ~~standard 362~~ (August, 2016).

937 **SECTION 182.** ATCP 50.705 (5) (a) 8. (Note) is amended to read:

938 **Note:** Additional regulatory requirements in s. NR 213 may apply for runoff control systems that store only  
939 feed storage area runoff, including s. Section NR 213.13 may have additional requirements for sweet corn  
940 silage stacks of greater than 150 tons., ~~and see s. Section~~ ATCP 51.20 (3) may have additional ~~for~~  
941 requirements for livestock facilities required to obtain a siting permit.

942 **SECTION 183.** ATCP 50.705 (5) (b) (Note) is repealed.

943 **SECTION 184.** ATCP 50.71 (3) (b) 1., 2., 3., and 4. are amended to read:

944 ATCP 50.71 (3) (b) 1. NRCS ~~technical guide~~ conservation practice standard 382 fence ~~standard~~  
945 ~~382~~ (January, 2014).

946 2. NRCS ~~technical guide~~ conservation practice standard 380 windbreak-shelterbelt establishment and

947 renovation ~~standard 380~~(January, 2023).

948 3. NRCS ~~technical guide~~conservation practice standard 472 access control ~~standard 472~~(April, 2016  
949 January, 2018).

950 4. NRCS ~~technical guide~~conservation practice standard 650 windbreak/shelterbelt renovation ~~standard~~  
951 650(January, 2013).

952 **SECTION 185.** ATCP 50.72 (3) (a) 1., 2., 3., 4., 5., 6., and 7. are amended to read:

953 ATCP 50.72 (3) (a) 1. NRCS~~technical guide~~ conservation practice standard 342 critical area planting  
954 ~~standard 342~~(August, 2016 January, 2018).

955 2. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

956 3. NRCS ~~technical guide~~conservation practice standard 386 field border ~~standard 386~~(January, 2017).

957 4. NRCS ~~technical guide~~conservation practice standard 393 filter strip ~~standard 393~~(January, 2017).

958 5. NRCS ~~technical guide~~conservation practice standard 472 access control ~~standard 472~~(April, 2016  
959 January, 2018).

960 6. NRCS ~~technical guide~~conservation practice standard 484 mulching ~~standard 484~~(June, 2016).

961 7. NRCS ~~technical guide~~conservation practice standard 391 riparian forest buffer ~~standard 391~~(January,  
962 2013).

963 **SECTION 186.** ATCP 50.73 (3) (d) 1., 2., 3., 4., 5., 6., 7., 8., 9., 10., 11., and 12. are amended to read:

964 ATCP 50.73 (3) (d) 1. NRCS ~~technical guide~~conservation practice standard 342 critical area planting  
965 ~~standard 342~~(August, 2016 January, 2018).

966 2. NRCS ~~technical guide~~conservation practice standard 350 sediment basin ~~standards 350~~(August, 2016).

967 3. NRCS ~~technical guide~~conservation practice standard 362 diversion ~~standard 362~~(August, 2016).

968 4. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

969 5. NRCS ~~technical guide~~conservation practice standard 500 obstruction removal ~~standard 500~~(July, 2016  
970 June, 2021).

971 6. NRCS ~~technical guide~~conservation practice standard 410 grade stabilization structure ~~standard~~

972 410(~~August, 2016~~August, 2021).

973 7. NRCS ~~technical guide~~conservation practice standard 412 grassed waterway ~~standard 412~~(July,  
974 ~~2016~~August, 2021).

975 8. NRCS ~~technical guide~~conservation practice standard 468 lined waterway or outlet ~~standard 468~~(March,  
976 ~~2013~~ June, 2021).

977 9. NRCS ~~technical guide~~conservation practice standard 484 mulching ~~standard 484~~(June, 2016).

978 10. NRCS ~~technical guide~~conservation practice standard 606 subsurface drain ~~standard 606~~(March, 2014  
979 June, 2021).

980 11. NRCS ~~technical guide~~conservation practice standard 620 underground outlet ~~standard 620~~(March, 2014  
981 June, 2021).

982 12. NRCS ~~technical guide~~conservation practice standard 638 water and sediment control basin ~~standard~~  
983 ~~638~~(~~August, 2016~~ January, 2018).

984 **SECTION 187.** ATCP 50.733 is created to read:

985 **ATCP 50.733 Habitat diversification.**

986 **(1) DEFINITION.** In this section, “habitat diversification” refers to the establishment and maintenance of  
987 native vegetative cover in an agricultural setting to provide habitat for wildlife and pollinator species.

988 **Note:** Habitat diversification practices convert small areas of agricultural fields to native stands of  
989 vegetation that augment normal agricultural operations; for example, establishing prairies strips within an  
990 agricultural field, or converting a small unproductive portion of an agricultural field to native pollinator  
991 habitat. While wildlife and pollinator habitat is the primary resource concern, the intention of these practices  
992 is to also provide water quality, soil health, and air quality benefits.

993 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs:

994 (a) The cost of fencing to protect the planted native vegetation.

995 (b) The cost to establish and manage vegetative cover, or to provide temporary cover until the planting is  
996 established. This may include costs for mulch, seed, and other necessary materials.

997 (c) The cost to shape, smooth, or prepare the site before establishing native vegetative cover.

998 **(3) INELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may not reimburse any of the following for

999 habitat diversification:

1000 (a) Plantings that include introduced species.

1001 (b) Whole-field conversion.

1002 (c) Fertilizing grass plantings.

1003 (d) Pasture plantings.

1004 **(4) DESIGN, CONSTRUCTION, AND MAINTENANCE.** A cost-share grant under s. [ATCP 50.40](#) may not

1005 reimburse habitat diversification costs unless all of the following conditions are met:

1006 (a) The habitat diversification practices comply with all of the following that apply:

1007 1. NRCS conservation practice standard 420 wildlife habitat planting (June, 2020).

1008 2. NRCS conservation practice standard 386 field borders (January, 2017), which must include the

1009 additional criteria to provide wildlife food and cover and pollinator or other beneficial organisms and the

1010 considerations to enhance wildlife, or pollinator value, or both.

1011 3. NRCS conservation practice standard 472 access control (January, 2018).

1012 4. NRCS conservation practice standard 393 filter strips (January, 2017), which must include the

1013 considerations for creating, restoring, or enhancing herbaceous habitat for wildlife and beneficial insects

1014 and pollinators.

1015 5. NRCS conservation practice standard 382 fence (January, 2014).

1016 6. NRCS Wisconsin agronomy technical note 5 establishing and maintaining native grasses, forbs and

1017 legumes (April, 2013)

1018 7. NRCS Wisconsin guidance document 420 habitat development for pollinators and butterflies (August,

1019 2022)

1020 (b) Following establishment of native vegetative cover, management of habitat complies with all of the

1021 following that apply:

1022 1. NRCS conservation practice standard 338 prescribed burning (March, 2016).

- 1023 2. NRCS conservation practice standard 314 brush management (April, 2017).
- 1024 3.. NRCS conservation practice standard 315 herbaceous weed treatment (June 2016)
- 1025 (c) The landowner agrees to maintain the native vegetation for 10 years.

1026 **SECTION 188.** ATCP 50.738 is created to read:

1027 **ATCP 50.738 Harvestable buffers.**

1028 **(1) DEFINITION.** In this section, “harvestable buffers” refers to the establishment of grass strips that can be  
1029 harvested for livestock forage, and is intended to reduce agricultural runoff from entering an adjacent  
1030 waterbody.

1031 **(2) ELIGIBILITY REQUIREMENTS.** To qualify for financial assistance under s ATCP 50.41, all of the  
1032 following eligibility criteria must be met:

1033 (a) The site is not eligible for the Conservation Reserve Enhancement Program.

1034 (b) The buffer must be adjacent to an eligible waterbody. Eligible waterbodies include perennial and  
1035 seasonal streams, creeks and ditches; lakes and ponds; wetlands; sink holes. Gullies or areas where water  
1036 runs only after precipitation are ineligible.

1037 (c) Must address a water quality resource concern.

1038 (d) The site has been in agricultural production for 4 out of the previous 6 years.

1039 (e) The planned buffer is at least 30-feet wide and no more than 150-feet wide.

1040 **(3) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs:

1041 (a) The cost of fencing to protect the planted vegetation.

1042 (b) The cost to establish the harvestable buffer, or to provide temporary cover until the planting is  
1043 established. This may include costs for mulch, seed, and other necessary materials.

1044 (c) The cost to shape, smooth, or prepare the site before establishing vegetative cover.

1045 **(4) DESIGN, CONSTRUCTION, AND MAINTENANCE.** Financial assistance under s ATCP 50.41 may not be  
1046 provided for harvestable buffers unless all of the following conditions are met:

1047 (a) The harvestable buffer practices comply with all of the following that apply:

1048 1. NRCS conservation practice standard 393 filter strip (January, 2017).

1049 2. NRCS Wisconsin agronomy technical note 6 establishing and maintaining introduced grasses and  
1050 legumes (March, 2013).

1051 3. NRCS Wisconsin agronomy technical note 10 planning, design, management and maintenance of  
1052 vegetative filter strips (VFS) (March, 2017).

1053 4. NRCS conservation practice standard 315 herbaceous weed treatment (June 2016).

1054 (b) The landowner agrees to maintain the vegetative cover for a period defined in the agreement with the  
1055 county; the minimum maintenance period shall be 10 years.

1056 **SECTION 189.** ATCP 50.74 is created to read:

1057 **ATCP 50.74 Hydrologic restoration.**

1058 **(1) DEFINITION.** In this section “Hydrologic restoration” means applying combinations of practices  
1059 designed to the extent possible to return wetland, stream, and floodplain hydrology to a natural and self-  
1060 regulating condition in order to achieve such agricultural goals as to slow the flow of runoff, reduce flood  
1061 peaks, restore surface and groundwater interactions, improve water quality, or to increase soil retention,  
1062 groundwater infiltration, base flow, upper watershed storage, and flood resilience. These practices can  
1063 also be used to reduce or repair erosion and maintain water supply. These benefits are achieved by  
1064 improving hydrologic conditions, connections, and functions. Hydrologic restoration practices may  
1065 improve and protect fish and wildlife habitat as an incidental benefit. Hydrologic restoration may include  
1066 any of the following components:

1067 (a) Diversions under s. ATCP 50.70.

1068 (b) Grade stabilization structures under s. ATCP 50.73.

1069 (c) Streambank or shoreline protection under s. ATCP 50.88.

1070 (d) Stream restoration under s. ATCP 50.882.

1071 (e) Stream crossing under s. ATCP 50.885.

1072 (f) Subsurface drains under s, ATCP 50.90.

1073 (g) Underground outlets under s. ATCP 50.92.



- 1074 (h) Water and sediment control basins under s. ATCP 50.95.
- 1075 (i) Waterway systems under s. ATCP 50.96.
- 1076 (j) Wetland development or restoration under s. ATCP 50.98.
- 1077 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs  
1078 related to hydrologic restoration:
- 1079 (a) Costs for system components under sub. (1) and (4) that are eligible for reimbursement under this  
1080 subchapter.
- 1081 (b) Costs to establish permanent vegetative cover, or to provide temporary cover pending the  
1082 establishment of permanent cover. This may include costs for mulch, fertilizer, seed, and other necessary  
1083 materials.
- 1084 (c) Costs to purchase and install permanent fencing around the project area.
- 1085 (d) Preparatory shaping and smoothing operations.
- 1086 (e) Costs for site preparation, grading, shaping and filling.
- 1087 **(3) INELIGIBLE COSTS.** Except for violations of this chapter or ch. 151, a cost-share grant under s.  
1088 ATCP 50.40 may not reimburse costs related to mitigation or correction of a violation of state or local  
1089 law.
- 1090 **(4) DESIGN, CONSTRUCTION, AND MAINTENANCE STANDARDS.** A cost-share grant under s. ATCP  
1091 50.40 may not reimburse hydrologic restoration costs unless all of the following conditions are met:
- 1092 (a) The hydrologic restoration complies with all of the following that apply:
- 1093 1. NRCS conservation practice standard 315 herbaceous weed treatment (June, 2016).
- 1094 2. NRCS conservation practice standard 327 conservation cover (January, 2013).
- 1095 3. NRCS conservation practice standard 332 contour buffer strips (July, 2016).
- 1096 4. NRCS conservation practice standard 338 prescribed burning (March, 2016).
- 1097 5. NRCS conservation practice standard 342 critical area planting (January, 2018).
- 1098 6. NRCS conservation practice standard 356 dike (September, 2016).

- 1099 7. NRCS conservation practice standard 382 fence (January, 2014).
- 1100 8. NRCS conservation practice standard 386 field border (January, 2017).
- 1101 9. NRCS conservation practice standard 391 riparian forest buffer (January, 2013).
- 1102 10. NRCS conservation practice standard 396 aquatic organism passage (July 2016).
- 1103 11. NRCS conservation practice standard 472 access control (January, 2018).
- 1104 12. NRCS conservation practice standard 484 mulching (June, 2016).
- 1105 13. NRCS conservation practice standard 554 drainage water management (August, 2021).
- 1106 14. NRCS conservation practice standard 587 structure for water control (January, 2018).
- 1107 15. NRCS conservation practice standard 604 saturated buffer (June, 2021).
- 1108 16. NRCS conservation practice standard 654 road/trail/landing closure and treatment (January, 2018).
- 1109 17. NRCS conservation practice standard 666 forest stand improvement 666 (October, 2017).
- 1110 (b) The landowner agrees to maintain the hydrologic restoration treatments for 10 years.
- 1111 **SECTION 190.** ATCP 50.75 (4) (a) 1. and 2. are amended to read:
- 1112 ATCP 50.75 **(4)** (a) 1. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard~~
- 1113 382(January, 2014).
- 1114 2. NRCS ~~technical guide~~conservation practice standard 472 access control ~~standard 472~~(April, 2016
- 1115 January, 2018).
- 1116 **SECTION 191.** ATCP 50.76 (5) (a) 1., 2., 3., 4., 6., and 7 are amended to read:
- 1117 ATCP 50.76 **(5)** (a) 1. NRCS ~~technical guide~~conservation practice standard 574 spring development
- 1118 ~~standard 574~~(March, 2014 August, 2021).
- 1119 2. NRCS ~~technical guide~~conservation practice standard 614 watering facility ~~standard 614~~(October, 2014
- 1120 June, 2021).
- 1121 3. NRCS ~~technical guide~~conservation practice standard 642 water well ~~standard 642~~(October, 2014 August,
- 1122 2021).
- 1123 4. NRCS~~technical guide~~ conservation practice standard 516 livestock pipeline ~~standard 516~~(December,

1124 ~~2016 June, 2021).~~

1125 6. NRCS ~~technical guide~~ conservation practice standard 561 heavy use area protection ~~standard~~

1126 ~~561~~ (August, 2015 November, 2022).

1127 7. NRCS ~~technical guide~~ conservation practice standard 533 pumping plant ~~standard 533~~ (July, 2016 August,

1128 2021).

1129 **SECTION 192.** ATCP 50.77 (4) (a) 1. and (Note) are repealed.

1130 **SECTION 193.** ATCP 50.77 (4) (a) 2., 3., 4., 5., 6., and 7. are renumbered to ATCP 50.77 (4) (a) 1., 2., 3.,

1131 4., 5., and 6. and amended to read:

1132 ATCP 50.77 (4) (a) ~~1. 1. *Milking Center Wastewater Guidelines*, a companion document to Wisconsin~~

1133 ~~NRCS conservation practice standard 629 (June, 2009).~~

1134 ~~**Note:** Copies of *Milking Center Wastewater Guidelines*, a companion document to Wisconsin NRCS~~

1135 ~~conservation practice standard 629 (June, 2009) are on file with the department and the legislative reference~~

1136 ~~bureau and can be obtained by visiting the department website at:~~

1137 ~~[https://datep.wi.gov/Pages/Programs\\_Services/ATCP50.aspx](https://datep.wi.gov/Pages/Programs_Services/ATCP50.aspx).~~

1138 1. NRCS ~~technical guide~~conservation practice standard 627 wastewater treatment, milk house standard

1139 ~~629~~ (January, 2014 November, 2022).

1140 2. NRCS ~~technical guide~~conservation practice standard 313 waste storage facility ~~standard 313~~ (January,

1141 2014 October, 2017).

1142 3. NRCS ~~technical guide~~conservation practice standard 634 waste transfer ~~standard 634~~ (January, 2014

1143 November, 2022).

1144 4. NRCS ~~technical guide~~conservation practice standard 590 nutrient management ~~standard 590~~ (December,

1145 2015).

1146 5. NRCS ~~technical guide~~conservation practice standard 635 vegetated treatment area ~~standard 635~~ (October,

1147 2014 September, 2016).

1148 6. NRCS ~~technical guide~~conservation practice standard 656 constructed wetland ~~standard 656~~ (December,

1149 2016).

1150 **SECTION 194.** ATCP 50.78 (3) (a) is amended to read:

1151 ATCP 50.78 (3) (a) The nutrient management practice complies with NRCS ~~technical guide~~ conservation  
1152 practice standard 590 nutrient management ~~standard 590~~ (December, 2015).

1153 **Note:** The NRCS ~~technical guide~~ conservation practice standard 590 nutrient management ~~standard 590~~  
1154 can be obtained by visiting the department website at:

1155 [https://datcp.wi.gov/Pages/Programs\\_Services/ATCP50.aspx](https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx).

1156 **SECTION 195.** ATCP 50.785 is created to read:

1157 **ATCP 50.785 Nutrient treatment system. (1) DEFINITION.** In this section “Nutrient treatment system”  
1158 means a system installed to intercept subsurface (tile) flow, groundwater, or surface runoff flow to reduce  
1159 the concentration of phosphorus or nitrate nitrogen and minimize the movement of these nutrients to  
1160 surface water, or groundwater, or both.

1161 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs  
1162 related to a nutrient treatment system:

1163 (a) Costs to design or install the system.

1164 (b) Costs to purchase and install necessary underground pipe, subsurface drain tile, outlets and other  
1165 necessary structures for water control or mechanical outlets.

1166 (c) Costs to remove obstructions, if necessary for the installation of an effective nutrient management  
1167 system.

1168 (d) Costs to establish permanent vegetative cover, or to provide temporary cover until permanent cover is  
1169 established. This may include costs for mulch, fertilizer, and other necessary materials.

1170 (e) Cost to install permanent fencing to protect the nutrient treatment system.

1171 (f) Other nutrient treatment systems, approved by the department, that are needed to meet identified water  
1172 quality objectives.

1173 **(3) INELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may not reimburse any of the following

1174 costs related to a nutrient treatment system:

1175 (a) Costs to design a nutrient treatment system that is not installed.

1176 (b) Costs of a proposed practice, to the extent that those costs exceed the cost of an equally effective  
1177 alternative.

1178 (c) Costs for any system, component, or practice that is not required to correct an identified water pollution  
1179 hazard.

1180 (d) Costs to install a nutrient treatment system in urban settings or that does not address agricultural runoff  
1181 or drainage.

1182 **(4) DESIGN, CONSTRUCTION, AND MAINTENANCE STANDARDS.** A cost-share grant under s. ATCP 50.40  
1183 may not reimburse costs related to a nutrient treatment system unless all of the following conditions are  
1184 met:

1185 (a) The nutrient treatment system complies with all of the following that apply:

1186 1. NRCS conservation practice standard 605 denitrifying bioreactor (June, 2021).

1187 2. NRCS conservation practice standard 782 phosphorus removal system (May, 2019).

1188 3. NRCS conservation practice standard 606 subsurface drain (June, 2021)

1189 4. NRCS conservation practice standard 342 critical area planting standard (January, 2018).

1190 5. NRCS conservation practice standard 484 mulching (June, 2016).

1191 6. NRCS conservation practice standard 554 drainage water management (August, 2021).

1192 7. NRCS conservation practice standard 587 structure for water control (January, 2018).

1193 8. NRCS conservation practice standard 604 saturated buffer (June, 2021).

1194 (b) The landowner agrees to maintain the nutrient treatment system for 10 years unless farming operations  
1195 on the affected land are discontinued.

1196 **SECTION 196.** ATCP 50.79 (3) (a) 1. is amended to read:

1197 ATCP 50.79 **(3)** (a) 1. NRCS ~~technical guide~~conservation practice standard 595 integrated pest

1198 management conservation system standard 595 (January, 2013-2022).

1199 **SECTION 197.** ATCP 50.79 (3) (a) 1m. is created:

1200 ATCP 50.79 **(3)** (a) 1m. NRCS conservation practice standard 309 agrichemical handling facility  
1201 (September, 2021).

1202 **SECTION 198.** ATCP 50.80 (1) (Note) is repealed.

1203 **SECTION 199.** ATCP 50.80 (2) (intro.) and (2) (c) and (d) are amended to read:

1204 ATCP 50.80 **(2)** ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of  
1205 replacing animal lots or pastures, ~~or~~ establishing a prescribed grazing system on croplands, or improving  
1206 an existing prescribed grazing system that contribute contributes sediments, nutrients, or pesticides to a  
1207 water resource. This may include any of the following costs:

1208 (c) The cost to establish, or enhance through interseeding or weed management, good seeding stands for  
1209 pasture and hayland planting.

1210 (d) The cost to establish a livestock watering facility. This may include pipeline and pasture watering  
1211 systems, wells, spring developments, winter watering facilities such as geothermal or heated jug, heavy use  
1212 area protection, and portable watering systems such as pumps, pipes, and tanks.

1213 **SECTION 200.** ATCP 50.80 (2) (g) is created to read:

1214 ATCP 50.80 **(2)** (g) The costs for development of a prescribed grazing plan.

1215 **SECTION 201.** ATCP 50.80 (3) (a) 1., 2., 3., 4., 5., 6., and 8., are amended to read:

1216 ATCP 50.80 **(3)** (a) 1. NRCS ~~technical guide~~conservation practice standard 342 critical area planting  
1217 ~~standard 342~~ (August, 2016 January, 2018).

1218 2. NRCS ~~technical guide~~conservation practice standard 512 forage and biomass planting ~~standard~~  
1219 ~~512~~ (January, 2013).

1220 3. NRCS ~~technical guide~~conservation practice standard 472 access control ~~standard 472~~ (April, 2016  
1221 January, 2018).

1222 4. NRCS ~~technical guide~~conservation practice standard 580 streambank and shoreline protection ~~standard~~

1223 ~~580(August, 2013~~ September, 2021).

1224 5. NRCS ~~technical guide~~conservation practice standard 561 heavy use area protection ~~standard 561(August,~~  
1225 ~~2015~~ November,2022).

1226 6. NRCS ~~technical guide~~conservation practice standard 528 prescribed grazing ~~standard (man-aged~~  
1227 ~~grazing-Wisconsin) 528(December, 2008~~ April, 2017).

1228 8. NRCS ~~technical guide~~conservation practice standard 575 trails and walkways ~~standard 575(April, 2016~~  
1229 August, 2021).

1230 **SECTION 202.** ATCP 50.80 (3) (a) 10. and 11. are created:

1231 ATCP 50.80 (3) (a) 10. NRCS conservation practice standard 315 herbaceous weed treatment (June  
1232 2016).

1233 ATCP 50.80 (3) (a) 11. NRCS conservation practice standard 314 brush management (April 2017).

1234 **SECTION 203.** ATCP 50.81 (5) (a) is amended to read:

1235 ATCP 50.81 **(5)** (a) The relocation or abandonment complies with the NRCS ~~technical guide~~conservation  
1236 practice standards for the conservation practices in this subchapter.

1237 **SECTION 204.** ATCP 50.82 (2) (a) 1m. is created to read:

1238 ATCP 50.82 **(2)** (a) 1m. Strip-till practices.

1239 **SECTION 205.** ATCP 50.82 (2) (a) 2., 3., and 4., (b), and (3) are repealed.

1240 **SECTION 206.** ATCP 50.82 (4) (c) is amended to read:

1241 ATCP 50.82 **(4)** (c) The residue management complies with ~~all of the following applicable standards:~~  
1242 ~~1-NRCS technical guide~~ conservation practice standard 329 residue and tillage management ~~no till/strip~~  
1243 ~~till/direct seed standard 329~~ (January, 2017 2018).

1244 **SECTION 207.** ATCP 50.82 (4) (c) 2., 3., and 4. are repealed.

1245 **SECTION 208.** ATCP 50.83 (3) (a) 1., 2., 3., 4., 5., 6., and 7. are amended to read:

1246 ATCP 50.83 **(3)** (a) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting  
1247 ~~standard 342 (August, 2016~~ January 2018).

1248 2. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

1249 3. NRCS ~~technical guide~~conservation practice standard 386 field border ~~standard 386~~(January, 2017).

1250 4. NRCS ~~technical guide~~conservation practice standard 393 filter strip ~~standard 393~~(January, 2017).

1251 5. NRCS ~~technical guide~~conservation practice standard 472 access control ~~standard 472~~(April, 2016  
1252 January, 2018).

1253 6. NRCS ~~technical guide~~conservation practice standard 484 mulching ~~standard 484~~(June, 2016).

1254 7. NRCS ~~technical guide~~conservation practice standard 391 riparian forest buffer ~~standard 391~~(January,  
1255 2013).

1256 **SECTION 209.** ATCP 50.83 (3) (a) 8. is repealed.

1257 **SECTION 210.** ATCP 50.83 (3) (a) 9. is amended to read:

1258 ATCP 50.83 (3) (a) 9. NRCS ~~technical guide~~conservation practice standard 420 upland wildlife habitat  
1259 management planting standard 645(January 2013 June, 2020).

1260 **SECTION 211.** ATCP 50.84 (1) (a) is created to read:

1261 ATCP 50.84 (1) (a) “Animal housing” means a building or structure used exclusively for the housing,  
1262 raising, or sheltering of animals.

1263 **SECTION 212.** ATCP 50.84 (1) (a) is renumbered to (am) and amended to read:

1264 ATCP 50.84 (1) (am) “Roof” means a weather-proof covering that shields an animal lot or manure storage  
1265 structure from precipitation, and includes the structure supporting that weather-proof covering. ~~“Roof” does~~  
1266 ~~not include, except in the case of a manure storage structure, a covering over an enclosed structure if the~~  
1267 ~~sum of the length of the walls of the structure exceeds 50% of the perimeter of the covering. If a structure~~  
1268 ~~includes 2 or more square or rectangular areas, the ratio of wall length to covering perimeter shall be~~  
1269 ~~separately calculated for each square or rectangular area, excluding common sides.~~

1270 **SECTION 213.** ATCP 50.84 (1) (b) is repealed.

1271 **SECTION 214.** ATCP 50.84 (4) (intro.) and (c) is consolidated, renumbered to (4), and amended to read:

1272 ATCP 50.84 (4) INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not reimburse ~~any of the~~



1273 following: ~~(e) Costs~~ the costs to install a roof over feed storage, machinery storage, or animal housing  
1274 areas, except as provided in sub. (3).

1275 **SECTION 215.** ATCP 50.84 (4) (a) and (b) are repealed.

1276 **SECTION 216.** ATCP 50.84 (5) (a) and (e) are amended to read.

1277 **(5)** (a) The roof complies with NRCS ~~technical guide~~ conservation practice standard 367 roofs and covers  
1278 ~~standard 367~~ (April, 2016).

1279 (e) The landowner agrees not to convert a roofed animal lot structure, cost-shared under this chapter, for  
1280 use other than as an animal lot for the duration of the maintenance agreement.

1281 **SECTION 217.** ATCP 50.85 (4) (a) 1. and 2. are amended to read:

1282 ATCP 50.85 **(4)** (a) 1. NRCS ~~technical guide~~ conservation practice standard 558 roof runoff structure  
1283 ~~standard 558~~ (September, 2010 2021).

1284 2. NRCS ~~technical guide~~ conservation practice standard 620 underground outlet ~~standard 620~~ (March, 2014  
1285 June, 2021).

1286 **SECTION 218.** ATCP 50.86 (4) (b) 1., 2., 3., 4., 5., 6., and 7. are amended to read:

1287 ATCP 50.86 **(4)** (b) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting  
1288 ~~standard 342~~ (August, 2016 January, 2018).

1289 2. NRCS ~~technical guide~~ conservation practice standard 350 sediment basin ~~standards 350~~ (August, 2016).

1290 3. NRCS ~~technical guide~~ conservation practice standard 634 waste transfer ~~standard 634~~ (January, 2014  
1291 November, 2022).

1292 4. NRCS ~~technical guide~~ conservation practice standard 382 fence ~~standard 382~~ (January, 2014).

1293 5. NRCS ~~technical guide~~ conservation practice standard 635 vegetated treatment area ~~standard 635~~ (October,  
1294 2014 September, 2016).

1295 6. NRCS ~~technical guide~~ conservation practice standard 561 heavy use area protection ~~standard 561~~ (August,  
1296 2015 November, 2022).

1297 7. NRCS ~~technical guide~~ conservation practice standard 620 underground outlet ~~standard 620~~ (March, 2014

1298 June, 2021).

1299 **SECTION 219.** ATCP 50.86 (4) (b) 9. is created to read:

1300 ATCP 50.86 **(4)** (b) 9. NRCS conservation practice standard 632 waste separation facility (November,  
1301 2022).

1302 **SECTION 220.** ATCP 50.87 (4) (a) 1., 2., and 3. are amended to read:

1303 ATCP 50.87 **(4)** (a) 1. NRCS ~~technical guide~~conservation practice standard 527-karst sinkhole treatment  
1304 ~~standard 527~~(September, 2021).

1305 2. NRCS ~~technical guide~~conservation practice standard 362 diversion ~~standard 362~~(August, 2016).

1306 3. NRCS ~~technical guide~~conservation practice standard 412 grassed waterway ~~standard 412~~(July, 2016  
1307 August, 2021).

1308 **SECTION 221.** ATCP 50.88 (1) (cg), (cr), and (em) are created to read:

1309 ATCP 50.88 **(1)** (cg) Livestock fencing under s. ATCP 50.75.

1310 (cr) Livestock watering facilities under s. ATCP 50.76.

1311 (em) Stream crossing under s. ATCP 50.885.

1312 **SECTION 222.** ATCP 50.88 (2) (a) is amended to read:

1313 ATCP 50.88 **(2)** (a) Costs to install new soil bioengineering and structural treatments including rock riprap.  
1314 Wood chunks, unsorted demolition material, brick, plaster, blacktop, and other materials that may produce  
1315 leachates may not be used as riprap. A cost-share grant may reimburse costs for rock and timber riprap or  
1316 lunkers used to establish fish habitat, in combination with the restoration of a riparian buffer and as part of  
1317 a streambank or shoreline protection scheme, provided that reimbursement for fish habitat does not exceed  
1318 25% of the cost-share grant.

1319 **SECTION 223.** ATCP 50.88 (2) (a) (Note) is repealed.

1320 **SECTION 224.** ATCP 50.88 (2) (c) (Note) is repealed.

1321 **SECTION 225.** ATCP 50.88 (3) (a) 1., 2., 3., 4., and 5. are amended to read:

1322 ATCP 50.88 **(3)** (a) 1. NRCS ~~technical guide~~conservation practice standard 342 critical area planting

1323 ~~standard 342~~(August, 2016 January, 2018).

1324 2. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

1325 3. NRCS ~~technical guide~~conservation practice standard 580 streambank and shoreline protection ~~standard~~

1326 580(August, 2013 September, 2021).

1327 4. NRCS ~~technical guide~~conservation practice standard 612 tree/shrub establishment ~~standard 612~~(July,

1328 ~~2014~~ January, 2018).

1329 5. NRCS ~~technical guide~~conservation practice standard 561 heavy use area protection ~~standard 561~~(August,

1330 ~~2015~~ November, 2022).

1331 **SECTION 226.** ATCP 50.88 (3) (a) 6., 7., 8., and 9. are created to read:

1332 ATCP 50.88 (3) (a) 6. NRCS conservation practice standard 326 clearing and snagging (June, 2016).

1333 7. NRCS conservation practice standard 395 stream habitat improvement and management (September,

1334 2021).

1335 8. NRCS conservation practice standard 582 open channel (September, 2021).

1336 9. NRCS conservation practice standard 584 channel bed stabilization (September, 2021).

1337 **SECTION 227.** ATCP 50.882 is created to read:

1338 **ATCP 50.882 Stream restoration.**

1339 **(1) DEFINITION.** In this section “Stream restoration” means applying combinations of practices designed

1340 to the extent possible to restore or repair healthy channel conditions, connections, and functions adjacent

1341 to or upstream from erosion-prone agricultural lands or to address other resource concerns. These practices

1342 shall be installed to slow the flow of runoff, reduce flood peaks, restore surface and groundwater

1343 interactions, improve water quality, or to increase soil retention, groundwater infiltration, base flow, upper

1344 watershed storage, and flood resilience. These practices can also be used to reduce or repair erosion,

1345 maintain water supply, maintain sediment transport continuity, restore natural drainage, and stabilize

1346 banks. Stream restoration practices may improve fish and wildlife habitat as an incidental benefit. Stream

1347 restoration may include any of the following components:

- 1348 (a) Hydrologic restoration under s. ATCP 50.74.
- 1349 (b) Streambank or shoreline protection under s. ATCP 50.88.
- 1350 (c) Stream crossing under s. ATCP 50.885.
- 1351 (d) Waterway systems under s. ATCP 50.96.
- 1352 (e) Wetland development or restoration under s. ATCP 50.98.
- 1353 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs
- 1354 related to stream restoration:
- 1355 (a) Costs for system components under sub. (1) and (4) that are eligible for reimbursement under this
- 1356 subchapter.
- 1357 (b) Costs to establish permanent vegetative cover, or to provide temporary cover pending the
- 1358 establishment of permanent cover. This may include costs for mulch, fertilizer, seed, and other necessary
- 1359 materials.
- 1360 (c) Costs to purchase and install permanent fencing around the critical area.
- 1361 (d) Preparatory shaping and smoothing operations.
- 1362 (e) Costs for site preparation, grading, shaping and filling.
- 1363 **(3) INELIGIBLE COSTS.** Except for violations of this chapter or ch. 151, a cost-share grant under s. ATCP
- 1364 50.40 may not reimburse costs related to mitigation or correction of a violation of state or local law.
- 1365 **(4) DESIGN, CONSTRUCTION, AND MAINTENANCE STANDARDS.** A cost-share grant under s. ATCP 50.40
- 1366 may not reimburse stream restoration costs unless all of the following conditions are met:
- 1367 (a) The stream restoration complies with all of the following that apply:
- 1368 1. NRCS conservation practice standard 315 herbaceous weed treatment (June, 2016).
- 1369 2. NRCS conservation practice standard 327 conservation cover (January, 2013).
- 1370 3. NRCS conservation practice standard 342 critical area planting standard (January, 2018).
- 1371 4. NRCS conservation practice standard 356 dike (September, 2016).

- 1372 5. NRCS conservation practice standard 382 fence (January, 2014).
- 1373 6. NRCS conservation practice standard 391 riparian forest buffer (January, 2013).
- 1374 7. NRCS conservation practice standard 395 stream habitat improvement and management (September,  
1375 2021).
- 1376 8. NRCS conservation practice standard 396 aquatic organism passage (July 2016).
- 1377 9. NRCS conservation practice standard 472 access control (January, 2018).
- 1378 10. NRCS conservation practice standard 484 mulching (June, 2016).
- 1379 11. NRCS conservation practice standard 554 drainage water management (August, 2021).
- 1380 12. NRCS conservation practice standard 582 open channel (September, 2021).
- 1381 13. NRCS conservation practice standard 584 channel bed stabilization (September, 2021).
- 1382 14. NRCS conservation practice standard 587 structure for water control (January, 2018).
- 1383 15. NRCS conservation practice standard 604 saturated buffer (June, 2021).
- 1384 16. NRCS conservation practice standard 643 restoration of rare or declining natural communities (May,  
1385 2014).

1386 (b) The landowner agrees to maintain the stream restoration treatments for 10 years.

1387 **SECTION 228.** ATCP 50.885 (1) and (4) (a) 1., 2., 3., and 4. is amended to read:

1388 ATCP 50.885 (1) DEFINITION. In this section, "stream crossing" means a road or pathway which confines  
1389 or directs the movement of livestock, farm equipment, or vehicular traffic over or through (ford crossing)  
1390 a stream, and which is designed and installed to improve water quality, reduce erosion, protect an installed  
1391 practice, or control livestock access to a stream.

1392 (4) (a) 1. NRCS ~~technical guide conservation practice standard 560~~ access road ~~standard 560 (October,~~  
1393 ~~2014-January, 2018).~~

1394 2. NRCS ~~technical guide conservation practice standard 580~~ streambank and shoreline protection ~~standard~~  
1395 ~~580 (August, 2013-September, 2021).~~

1396 3. NRCS ~~technical guide~~ conservation practice standard 382 fence standard 382 (January, 2014).

1397 4. NRCS ~~technical guide~~ conservation practice standard 578 stream crossing standard 578 (March, 2015

1398 January, 2018).

1399 **SECTION 229.** ATCP 50.89 (3) (b) 1. and 2. and (c) are amended to read:

1400 ATCP 50.89 **(3)** (b) 1. NRCS ~~technical guide~~ conservation practice standard 500 obstruction removal

1401 standard 500 (July, 2016 June, 2021).

1402 2. NRCS ~~technical guide~~ conservation practice standard 585 stripcropping standard 585 (June, 2016).

1403 (c) The landowner agrees to maintain the stripcropping ~~for 10 years unless farming operations on the~~

1404 ~~affected land are discontinued~~ in each cropping season for which cost-sharing is provided.

1405 **SECTION 230.** ATCP 50.90 (2), (3) (a) and (b) 1. and 2. are amended to read:

1406 ATCP 50.90 **(2)** ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of

1407 designing and constructing a subsurface drain as part of a manure storage system, barnyard runoff control

1408 system, feed storage runoff control system, or erosion control system, or as part of a nutrient treatment

1409 system.

1410 **(3)** (a) The subsurface drain is a necessary component of a manure storage system, barnyard runoff control

1411 system, feed storage runoff control system, or erosion control system, or as part of a nutrient treatment

1412 system.

1413 (b) 1. NRCS ~~technical guide~~ conservation practice standard 606 subsurface drain standard 606 (March, 2014

1414 June, 2021).

1415 2. NRCS ~~technical guide~~ conservation practice standard 620 underground outlet standard 620 (March, 2014

1416 June, 2021).

1417 **SECTION 231.** ATCP 50.91 (3) (b) 1., 2., 3., 4., 5., 6., 7., and 8. are amended to read:

1418 ATCP 50.91 **(3)** (b) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting

1419 standard 342 (August, 2016 January, 2018).

1420 2. NRCS ~~technical guide~~ conservation practice standard 412 grassed waterway standard 412 (July, 2016

1421 August, 2021).

1422 3. NRCS ~~technical guide~~conservation practice standard 468 lined waterway or outlet ~~standard 468~~(~~March,~~  
1423 ~~2013~~ June, 2021).

1424 4. NRCS ~~technical guide~~conservation practice standard 500 obstruction removal ~~standard 500~~(~~July, 2016~~  
1425 June, 2021).

1426 5. NRCS ~~technical guide~~conservation practice standard 600 terrace ~~standard 600~~(~~March, 2015~~ August,  
1427 2021).

1428 6. NRCS ~~technical guide~~conservation practice standard 606 subsurface drain ~~standard 606~~(~~March, 2014~~  
1429 June, 2021).

1430 7. NRCS ~~technical guide~~conservation practice standard 620 underground outlet ~~standard 620~~(~~March, 2014~~  
1431 June, 2021).

1432 8. NRCS ~~technical guide~~conservation practice standard 638 water and sediment control basin ~~standard~~  
1433 ~~638~~(~~August, 2016~~ January, 2018).

1434 **SECTION 232.** ATCP 50.92 (3) (b) 1. and 2. are amended to read:

1435 ATCP 50.92 (3) (b) 1. NRCS ~~technical guide~~conservation practice standard 606 subsurface drain ~~standard~~  
1436 ~~606~~(~~March, 2014~~ June, 2021).

1437 2. NRCS ~~technical guide~~conservation practice standard 620 underground outlet ~~standard 620~~(~~March, 2014~~  
1438 June, 2021).

1439 **SECTION 233.** ATCP 50.925 is created to read:

1440 **ATCP 50.925 Verification of Depth to Bedrock**

1441 (1) DEFINITION. In this section, “verification of depth to bedrock” means investigative methods for infield  
1442 depth to bedrock verification for fields receiving mechanical applications of manure.

1443 (2) COST-SHARE ELIGIBILITY. A cost-share grant under s. ATCP 50.40 may reimburse a landowner for the  
1444 costs of verifying depth to bedrock in an area subject to s. NR 151.075.

1445 (3) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs

1446 related to verification of depth to bedrock:

1447 (a) Costs to conduct a site assessment.

1448 (b) Costs to prepare the plan for verification of depth to bedrock.

1449 (c) Costs associated with implementation of the plan for verification of depth to bedrock using intrusive  
1450 methods.

1451 (d) Costs associated with implementation of the plan for verification of depth to bedrock using  
1452 geophysical methods.

1453 (e) Costs associated with ground truthing data collected through geophysical methods.

1454 (f) Costs to develop field maps as defined in the technical standard 01 verification of depth to bedrock  
1455 (July, 2021).

1456 (g) Costs to backfill or abandon boreholes and test pits.

1457 **(4)** Ineligible costs include costs to become a qualified verifier.

1458 **(5) PLANS AND SPECIFICATIONS.** A cost-share grant may not reimburse any costs for verification of  
1459 depth to bedrock unless all of the following conditions are met:

1460 (a) The verification of depth to bedrock complies with the department technical standard 01 verification  
1461 of depth to bedrock (July, 2021).

1462 (b) The following that apply are completed and submitted to the department:

1463 1. Field data reporting forms.

1464 **Note:** Field data reporting forms in subd. 1. should identify the data listed in Attachment 3 of the  
1465 department technical standard 01 verification of depth to bedrock (July, 2021). A template form for the  
1466 intrusive verification method can be obtained at:

1467 [https://datcp.wi.gov/Pages/Programs\\_Services/DepthToBedrockStandard](https://datcp.wi.gov/Pages/Programs_Services/DepthToBedrockStandard).

1468 2. Geophysical data map, if applicable, with legend, unit and ground truthing locations.

1469 3. Borehole abandonment forms.

1470 4. Name and qualifications of individual analyzing the field data.



1471 5. A computer file with tabulated data in spreadsheet format that identifies latitude/longitude coordinates  
1472 as recorded during the field effort.

1473 6. Field maps depicting intrusive method data points and depth to bedrock, including information below:

1474 a. Borings or geophysical survey locations, or both, by recording latitude/longitude coordinates of  
1475 verification borings and geophysical survey locations using the WGS84 coordinate system.

1476 b. Field location, field boundary, acres, field identification number, scale, all borings and geophysical  
1477 survey locations, or both using the above requirements and a North directional arrow.

1478 **SECTION 234.** ATCP 50.93 (1) is amended to read:

1479 ATCP 50.93 (1) DEFINITION. In this section, "waste transfer system" means components such as pumps,  
1480 pipes, conduits, valves, and other structures installed to convey manure, feed storage, and milking center  
1481 wastes from buildings and animal feeding operations to a storage structure, loading area, or treatment area.

1482 **SECTION 235.** ATCP 50.93 (4) (a) (intro.) and 1. are consolidated, renumbered ATCP 50.93 (4) (a) and  
1483 amended to read:

1484 (4) (a) The waste transfer system complies with ~~all of the following that apply:~~

1485 ~~1. NRCS technical guide conservation practice standard 634 waste transfer ~~standard 634~~ (January, 2014~~  
1486 ~~November, 2022).~~

1487 **SECTION 236.** ATCP 50.93 (4) (a) 2. is repealed.

1488 **SECTION 237.** ATCP 50.94 (1) and (3) (a) 1., 2., 3., 4., and 5. are amended to read:

1489 ATCP 50.94 (1) DEFINITION. In this section, "wastewater treatment strip" means an area of herbaceous  
1490 vegetation that is used as part of an agricultural waste management system to remove pollutants from animal  
1491 lot runoff or wastewater, such as runoff or wastewater from a milking center or feed storage area.

1492 (3) (a) 1. NRCS ~~technical guide conservation practice standard 342 critical area planting ~~standard~~~~  
1493 ~~342~~ (August, 2016 January, 2018).

1494 2. NRCS ~~technical guide conservation practice standard 382 fence ~~standard 382~~ (January, 2014).~~

1495 3. NRCS ~~technical guide conservation practice standard 472 access control ~~standard 472~~ (April, 2016~~

1496 January, 2018).

1497 4. NRCS ~~technical guide~~conservation practice standard 484 mulching ~~standard 484~~(June, 2016).

1498 5. NRCS ~~technical guide~~conservation practice standard 635 vegetated treatment area ~~standard 635~~(October,

1499 ~~2014~~ September, 2016).

1500 **SECTION 238.** ATCP 50.95 (3) (a) 1., 2., 3., and 4. are amended to read:

1501 ATCP 50.95 (3) (a) 1. NRCS ~~technical guide~~conservation practice standard 342 critical area planting

1502 ~~standard 342~~(August, 2016-January, 2018).

1503 2. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

1504 3. NRCS ~~technical guide~~conservation practice standard 638 water and sediment control basin ~~standard~~

1505 ~~638~~(August, 2016-January, 2018).

1506 4. NRCS ~~technical guide~~conservation practice standard 620 underground outlet ~~standard 620~~(March, 2014

1507 June, 2021).

1508 **SECTION 239.** ATCP 50.96 (3) (b) 1., 2., 3., 4., 5., 6., 7., and 8. are amended to read:

1509 ATCP 50.96 (3) (b) 1. NRCS ~~technical guide~~conservation practice standard 342 critical area planting

1510 ~~standard 342~~(August, 2016-January, 2018).

1511 2. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

1512 3. NRCS ~~technical guide~~conservation practice standard 412 grassed waterway ~~standard 412~~(July,

1513 ~~2016~~August, 2021).

1514 4. NRCS ~~technical guide~~conservation practice standard 484 mulching ~~standard 484~~(June, 2016).

1515 5. NRCS ~~technical guide~~conservation practice standard 500 obstruction removal ~~standard 500~~(July, 2016

1516 June, 2021).

1517 6. NRCS ~~technical guide~~conservation practice standard 606 subsurface drain ~~standard 606~~(March, 2014

1518 June, 2021).

1519 7. NRCS ~~technical guide~~conservation practice standard 620 underground outlet ~~standard 620~~(March, 2014

1520 June, 2021).

1521 8. NRCS ~~technical guide~~conservation practice standard 468 lined waterway or outlet ~~standard 468~~(March,  
1522 ~~2013~~ June, 2021).

1523 **SECTION 240.** ATCP 50.97 (3) (a) is amended to read:

1524 ATCP 50.97 **(3)** (a) NRCS ~~technical guide~~conservation practice standard 351 well decommissioning  
1525 ~~standard 351~~(~~October, 2014~~ August 2021).

1526 **SECTION 241.** ATCP 50.98 (1) is amended to read:

1527 ATCP 50.98 **(1)** DEFINITION. In this section, "wetland development or restoration" means ~~the construction~~  
1528 ~~of berms, or the destruction of tile line or drainage ditch functions, to create or restore~~ creating or restoring  
1529 hydrologic or other conditions suitable for wetland vegetation or other important wetland functions.  
1530 Construction of berms, destroying of tile lines or drainage ditch functions, or excavating areas (scrapes) are  
1531 among common practices.

1532 **SECTION 242.** ATCP 50.98 (2) (e) is created to read:

1533 ATCP 50.98 **(2)** (e) Costs for earth moving to construct scrapes.

1534 **SECTION 243.** ATCP 50.98 (3) (a) and (3) (a) 1. are amended to read:

1535 ATCP 50.98 **(3)** (a) The wetland development or restoration complies with all of the following that apply:

1536 1. NRCS ~~technical guide~~conservation practice standard 657 wetland restoration ~~standard 657~~(September,  
1537 ~~2016~~ February, 2020).

1538 **SECTION 244.** ATCP 50.98 (3) (a) 2. is created to read:

1539 ATCP 50.98 **(3)** (a) 2. NRCS conservation practice standard 658 wetland creation (October, 2016).

1540 **SECTION 245.** EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day  
1541 of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22  
1542 (2) (intro.), Stats.

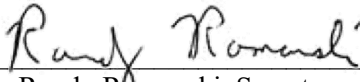
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(END OF RULE TEXT)

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Dated this 14th day of September, 2023

WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

  
\_\_\_\_\_

By: Randy Romanski, Secretary

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input type="checkbox"/> Original <input checked="" type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date 2/7/23</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Ch. ATCP 50, Soil and Water Resource Management Program</p>	
<p>4. Subject Implementation of Silurian bedrock performance standard, adoption of Verification of Depth to Bedrock technical standard DATCP 01, adopt conservation practices, and other rule changes to update and clarify provisions and simplify language.</p>	
<p>5. Fund Sources Affected <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected 20.115 (7) (c), 20.115 (7) (qe), 20.115 (7) (qf), 20.866 (2) (we)</p>
<p>7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input checked="" type="checkbox"/> Specific Businesses/Sectors <input checked="" type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$Approximately \$207,695 (landowner and agricultural producers + local government)</p> <p>See question 14 for a detailed explanation of the cost estimate.</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule In 2018, the Wisconsin Department of Natural Resources (DNR) promulgated a targeted performance standard related to Silurian bedrock in ch. NR 151.075, Wis. Adm. Code, designed to minimize the risk for pathogen delivery to groundwater. The performance standard applies within parts of 16 counties in the Silurian bedrock area (Brown, Calumet, Dodge, Door, Fond du Lac, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha). The performance standard sets forth manure spreading rates and practices for mechanical manure application that vary according to the soil depth and texture. The most restrictive practices apply to those limited areas of the highest risk for pathogen delivery. Less restrictive requirements apply in areas with 5 to 20 feet to bedrock. The Department of Agriculture, Trade and Consumer Protection (department) is responsible for developing and disseminating technical standards to implement the ch. NR 151 performance standards and prohibitions. The proposed revisions to ch. ATCP 50 adds Silurian bedrock as a farm conservation practice and describes the requirements farmers and landowners must meet to implement the performance standard. The rule adds DATCP 01 Verification of Depth to Bedrock Technical Standard as a voluntary tool farmers and landowners can use to verify the depth to bedrock. The rule also allows counties to cost-share the use this technical standard and to update a nutrient management plan to comply with the Silurian bedrock performance standard. It establishes a delayed date of implementation. In addition to adding provisions to implement the Silurian bedrock performance standard, the rule does the following:</p> <ul style="list-style-type: none"><li>• Makes language updates and changes, including corrections to outdated provisions.</li><li>• Updates and adds definitions to clarify the meaning of important terms.</li><li>• Updates provisions related to soil and water conservation on farms.</li></ul>	

## **ADMINISTRATIVE RULES**

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- Updates requirements for administration of the soil and water resource management grant program.
  - Updates and clarifies the process for counties to receive grants from the department.
  - Adds options for providing financial assistance to landowners.
  - Updates and adds maximum rates of financial assistance for some cropping practices.
  - Clarifies and updates requirements and eligibility related to engineering certification and nutrient management planning.
  - Adds a process for development of technical standards.
  - Updates conservation practices and adds new conservation practices.
- 

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.

This rule will mostly impact landowners and agricultural producers, many of whom qualify as small businesses. This rule may also impact agricultural service providers, such as certified crop consultants or agricultural engineers. This rule may also have an impact on county government, specifically the county land conservation departments.

#### Landowners and Agricultural Producers

The proposed rule does not add any additional requirements beyond what DNR already passed in 2018 for agricultural producers. Instead, the rule focuses on identifying mechanisms for landowners to implement agricultural performance standards established by DNR, specifically the Silurian bedrock performance standard promulgated in 2018. The proposed rule incorporates Silurian bedrock as a farm conservation practice. The primary conservation practice to meet this agricultural performance standard is implementation of a nutrient management plan written to account for the Silurian bedrock performance standard. The rule identifies various tools to support landowners in implementing this performance standard including cost-sharing, delayed implementation, and access to a voluntary tool to determine if the agricultural performance standard applies or to determine which spreading restrictions apply. Additional changes in the proposed rule add options for meeting soil and water conservation needs by adding additional conservation practices and allow landowners to receive financial assistance in a form other than cost-sharing.

#### Agricultural Service Providers

The rule may impact businesses other than agricultural producers including nutrient management planners, certified crop consultants, farm supply organizations, manure haulers, agricultural engineering practitioners and consultants, and contractors. Proposed changes in the rule will likely lead to requests for assistance to update nutrient management plans and potential requests for assistance to verify depth to bedrock in cropland. Nutrient management plans may lead to farm management changes that require assistance or products from farm supply organization, agricultural engineering practitioners and consultants, contractors, certified crop consultants and manure haulers. Additional changes in the rule will enable architects to sign off on roof structure designs.

#### County government

The rule will affect local government, specifically county land conservation departments. The proposed rule updates the dates of conservation practice standards, which are used when state cost-share is used to fund a project. Counties may need to update local ordinances to reference the updated dates. However, ordinance updates occur with some regularity, and updating ch. ATCP 50 would not mandate any counties to update their ordinances. Local government will likely experience temporary, additional staff time demands related to understanding, communicating and operationalizing proposed changes in the rule and related changes to local ordinances. There is also a potential for reduced staff demand related to the Farmland Preservation Program (FPP) if individual landowners opt out of participation of the program due to required changes in manure application practices resulting from implementation of the Silurian bedrock performance standard.

#### Individuals

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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

This rule will impact individuals, but it is estimated that most individuals are also agricultural producers or agricultural service providers, many of whom qualify as small businesses. See Landowners and Agricultural Producers and Agricultural Service Providers.

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13. Identify the Local Governmental Units that Participated in the Development of this EIA.

NA

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14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

Landowner and Agricultural Producer - \$187,965

The changes to the proposed rule related to the implementation of the Silurian bedrock performance standard apply to a subset of landowners and agricultural producers. Chapter ATCP 50 establishes that a landowner can achieve compliance with the Silurian bedrock performance standard through implementation of a nutrient management plan written to the nutrient management standard that accounts for the Silurian bedrock performance standard.

The rule's economic and fiscal impact to landowners and agricultural producers is anticipated to be low to moderate based upon the analysis provided below.

- The Silurian bedrock performance standard only applies within the Silurian bedrock area - 16-county area in eastern Wisconsin.
  - o Impacted counties include Brown, Calumet, Dodge, Door, Fond du Lac, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha
  - o Of these 16 counties, Kewaunee County already requires compliance with the Silurian bedrock performance standard through a local ordinance adopted by referendum. Therefore, acres in Kewaunee County are not included in this analysis.
  - o The Silurian bedrock performance standard has the highest impact is on farms in areas with soil depth ranges over Silurian bedrock at the following depths: 0-2 feet, 2-3 feet, 3-5 feet, and 5-20 feet where manure is mechanically applied.
- The department estimates that approximately 180,000 acres of cropped land is on soils with <20' depth to Silurian bedrock in the area where the Silurian bedrock performance standard applies (these data were pulled using the National Land Cover Database for Wisconsin and the DNR's Thickness of Unconsolidated Materials Over Silurian Bedrock dataset)
  - o The analysis excludes acres in Kewaunee since the county already requires compliance
  - o Farms that are permitted by the DNR through the Wisconsin pollutant discharge elimination system (WPDES) program, are not included in these acres since they are required to meet the standard as part of their permit.
  - o Milwaukee and Kenosha are not included in this analysis because they do not have any cropped land on soils with <20' depth to Silurian bedrock.
- It is estimated that 48.5% of the acres of agricultural cropland in the area are already covered by a nutrient management plan based upon annual reporting to the department.
  - o Counties report nutrient management acres to the department annually, and 2021 coverage percentages were averaged from the counties identified in the 180,000-acre analysis above.
  - o Nutrient management plan coverage for counties included in analysis: Brown (75%), Calumet (74%), Dodge (41%), Door (94%), Fond du Lac (73%), Manitowoc (88%), Outagamie (30%), Ozaukee (61%), Racine (9%), Sheboygan (46%), Walworth (23%), Washington (53%), and Waukesha (12%). These percentages include acres in a nutrient management plan that may be covered by a WPDES permit. The average percent of the nutrient management plan coverage is 48.5% across the Silurian area.
  - o  $180,000 \text{ acres} \times 48.5\% = 87,300 \text{ acres}$  covered by a nutrient management plan.
- Chapter ATCP 50 proposes a one-time cost share of \$5 per acre for updating an existing nutrient management plan. There are no additional requirements for farmers to write a nutrient management plan if they do not currently have one.
  - o The department estimates that it costs ~\$7.15 per acre to update a nutrient management plan. Landowners can

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receive 70% cost-sharing which equals \$5/acre. This leaves \$2.15 per acre of cost to landowners and producers to update their existing nutrient management plan.

o  $\$2.15 \times 87,300 \text{ acres} = \$187,965$  of cost to update an nutrient management plan

This economic impact analysis considers the cost to update an existing nutrient management plan to account for the restrictions and prohibitions in the Silurian bedrock performance standard. This economic impact analysis does not consider the operational and management changes that may be required to implement the nutrient management plan. These changes are not possible to estimate without gathering information from individual farms about their management choices to meet the Silurian bedrock performance standard (s. NR 151.075). These management decisions may include:

- Renting additional cropland
- Pre-tillage
- Increased hauling
- Manure storage construction
- Pathogen treatment facilities
- Purchase of commercial fertilizer

Estimates of costs for an individual associated with each of these management decisions was compiled by the DNR in a preliminary economic impact analysis completed as part of their rule process to write the Silurian bedrock performance standard.

Landowners that participate in the FPP will be required to meet the Silurian bedrock performance standard, if the Silurian bedrock performance standard applies to them, to continue to claim the Farmland preservation tax credit. The proposed rule provides delayed implementation for meeting this standard. It is estimated that there are 75,000 acres eligible for the FPP program as of January 1, 2022 that may be affected by the Silurian bedrock performance standard. These acres are included in the 180,000 acres calculated above, but it is impossible to estimate which of the eligible acres are participating in the program.

The proposed rule also incorporates the DATCP 01 Verification of Depth to Bedrock technical standard and allows cost-share to landowners to verify field soil depth over bedrock. This verification process is voluntary, and landowners are not required to use this technical standard. The department anticipates that individuals most likely to use DATCP 01 are those who have shallow soils with depths less than 2 ft above bedrock. It is estimated that using the intrusive hand probe method costs about \$25/acre to check depth to bedrock. Cost-sharing will be available up to 70% or 90% in cases of economic hardship. It is unknown how many landowners will seek to use this voluntary technical standard. At this time, no reliable data exists on how many acres have shallow soils with depths less than 2 ft above bedrock, and it is not possible to estimate cost of verification.

The proposed rule also includes updating conservation practice standard effective dates, which may lead to increased costs to design and implement a project, which landowners must follow when installing practices through local ordinances and/or receiving state cost-share dollars. While a reliable estimate for these costs is not possible, the landowner or producer can enter into a contract with the county to receive up to 70% of the costs, or 90% of the costs in the case of economic hardship.

The rule also proposes grant funds that counties receive from the state to provide financial assistance to landowners and agricultural producers in forms other than cost-sharing.

The proposed rule changes the method of financial assistance for some conservation cropping practices from a maximum rate to a 70% cost-share. These adjustments are expected to increase the amount of financial assistance available to landowners and producers.

In addition, the rule proposes to add new conservation practices, which will enable landowners and producers to receive financial assistance for a wider range of conservation practices.

These changes are anticipated to have a net positive effect on small businesses and individuals.

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## **ADMINISTRATIVE RULES**

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#### **Agriculture Service Providers**

The rule may have a small positive impact on businesses other than agricultural producers including nutrient management planners, certified crop consultants, farm supply organizations, manure haulers, agricultural engineering practitioners, and contractors. Proposed changes in the rule will likely lead to requests for assistance to update nutrient management plans and potential requests for assistance to verify depth to bedrock in cropland. Nutrient management plans may lead to farm management changes that require assistance or products from farm supply organization, agricultural engineering practitioners and consultants, contractors, certified crop consultants and manure haulers. Additional changes in the rule will enable architects to sign off on roof structure designs. It is not possible for the department to speculate on potential increased revenue to private industry.

#### **Local Government - \$20,000**

The rule's economic and fiscal impact to local government is anticipated to be low. The primary impact will be the potential for increased workload because of the proposed changes.

The proposed rule updates the dates of conservation practice standards used when project funding is provided from the state. Local ordinances, primarily local animal waste ordinances, that reference the rule may need to be updated following promulgation to the 2017 Natural Resources Conservation Service (NRCS) conservation practice standard 313 waste storage. The department anticipates that the cost to local government will be minimal. A review of animal waste ordinances across the state identified only three counties that are not currently referencing the 2017 version of the NRCS Conservation practice standard 313 waste storage. Some of these counties may seek to update their ordinance once changes to ch. ATCP 50 are promulgated or are already designing to the updated standard. Professional engineers have been designing to the 2017 standard since enacted five years ago as the updated standard results in a better, more resilient conservation practice.

The proposed rule updates requirements for Land and Water Resource Management planning and the administration of the Soil and Water Resource Management Grant Program. The updated language is clearer and better reflects the current process, improving program administration and is expected to reduce the time local government will spend developing the plan.

The proposed changes to the rule requires FPP participants in the Silurian bedrock area to meet the Silurian bedrock performance standard to continue to receive a tax credit. County staff review landowner compliance with the FPP. It is anticipated that additional staff time will be required as more landowners seek to update and implement their nutrient management plans to account for the Silurian bedrock performance standard. This additional staff time includes outreach and education, additional training on SnapPlus nutrient management software, extra compliance reviews, additional time to update certificates of compliance or issue notices of noncompliance with the FPP. There is a potential that the requirement to meet the Silurian bedrock performance standard may result in lower participation in FPP. If this happens, the proposed changes may lead to decreased county staff time. Counties that may have additional workload due to increased FPP requirements include Brown, Calumet, Dodge, Fond du Lac, Kewaunee, Manitowoc, Fond du Lac, Racine, Sheboygan, and Walworth. The department estimates the additional workload at 40 hours a year, and the average technician being paid \$50 per hour.  $\$50 \times 40 \text{ hours} \times 10 \text{ counties} = \$20,000$ .

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#### **15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule**

Implementation of the proposed rule will assist landowners with compliance with the Silurian bedrock performance standard which will ultimately protect groundwater from pathogen contamination and protect public health.

Implementation of the proposed rule will provide landowners with a tool to verify the depth to bedrock in a field to best comply with nutrient management requirements.

Updating standards and expanding the list of conservation practices that are eligible for cost share benefits producers, counties, and other small businesses in the agricultural sector by allowing state funds to be used more widely and for innovative projects. Updating the standards will result in increased consistency with practice implementation since some

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## **ADMINISTRATIVE RULES**

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counties are requiring the most updated standards, while the state uses outdated standards. Stakeholders also benefit from updates in the rule that clarify definitions and processes, including adding a technical standard to verify depth to bedrock, adding a process for development of future technical standards if needed to implement the agricultural performance standards, and updating requirements and eligibility related to engineering certification and nutrient management planning.

The alternative is to leave the rule as is. Without the rule, landowners will not have access to information and tools necessary to comply with state agricultural performance standards. Counties will not be able to incorporate or enforce state performance standards. The rule will be more difficult to understand than necessary, it will reference outdated conservation practice standards, and will conflict with the existing DNR administrative rule. Water quality may not be adequately protected from pathogen contamination in the Silurian bedrock area of the state.

Without implementation of rule changes related to the grants to counties and financial assistance to landowners will be affected. Maximum rates of financial assistance will remain lower than what is available from partner agencies.

Additional conservation practices will not be made available for cost-share.

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#### 16. Long Range Implications of Implementing the Rule

The protection of public health and avoidance of groundwater contamination is a long-term benefit. For farmers, changes in practice may be required. For non-permitted operators, those changes will be required only if accompanied by cost share dollars for those practices that are eligible for cost share.

The department expects the proposed rule to have a positive long-range impact on all stakeholders because it will give more flexibility for counties and landowners to cost share a variety of practices at appropriate market rates. It also allows for innovative projects to be funded like conservation crop rotation, conservation cover, habitat diversification, harvestable buffers, hydrologic restoration, nutrient treatment systems, stream restoration, and DATCP 01 Verification of depth to bedrock.

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#### 17. Compare With Approaches Being Used by Federal Government

NRCS has adopted conservation practice standards that receive financial assistance from NRCS. Current department rules incorporate many NRCS conservation practice standards by reference. In most cases, these standards apply only to conservation practices that receive financial assistance from the department funds. Enforcement of the standards is generally contingent on cost-sharing, with some limited exceptions.

The United States Department of Agriculture (USDA) administers several federal programs that offer voluntary conservation incentives to farmers. The Environmental Quality Incentives Program is a key program offering cost-sharing for conservation improvements, including nutrient management plans, manure storage improvements and other conservation practices. Other programs, such as the Conservation Reserve Program and the Conservation Reserve Enhancement Program also provide cost-sharing and other incentives for conservation practices.

The department attempts to coordinate state programs for conservation funding with relevant federal programs whenever possible. As a result of confidentiality requirements, federal cost-sharing provided to landowners through federal programs cannot be publicly disclosed and it is difficult to account for what role, if any, these funds may play meeting state agricultural performance standards.

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#### 18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

A review of other states for requirements related to manure applications on shallow soils over bedrock found limited similarities with s. NR 151.075. There were similarities in technical standards and existing rules statewide that apply to timing of manure applications and setback distances to some direct conduits (wells, sinkholes).

Each state has a soil and water conservation program, and offer cost share grants, but Wisconsin is the only state that coordinates with land conservation departments within counties. Other states have conservation districts, which are established under state law. The goal of conservation districts and land conservation departments is to coordinate assistance from all available sources—public and private, local, state and federal—to develop locally-driven solutions to natural resources concerns.

Regardless of organization of the conservation departments across all states, the bulk of funding is acquired from NRCS. In Wisconsin in 2021, approximately \$51.4 million was spent from the federal NRCS for conservation activities through the Environmental Quality Incentives Program (\$30.5 million), the Conservation Stewardship Program (\$18.1 million), and the Agricultural Conservation Easement Program (\$2.8 million). In contrast in 2022, Wisconsin appropriated

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## **ADMINISTRATIVE RULES**

### **Fiscal Estimate & Economic Impact Analysis**

approximately \$9 to 11 million annually for county conservation staff. An additional amount equal to approximately \$6 million annually was available for cost-share to producers to install conservation practices with county assistance. Wisconsin is only state where a FPP requires participants to comply to soil and water conservation standards.

#### **Illinois**

While Illinois has a statewide FPP in which landowners may restrict the use of their land to agricultural or related uses in exchange for tax credits, the program does not include conservation compliance requirements.

The Illinois Department of Agriculture offers Sustainable Agriculture grants to organizations, governmental units, educational institutions, non-profit groups and individuals to cost share a variety of conservation practices. Practices are funded at a 75% cost-share rate, but the list of eligible practices is much smaller than the number of practices in Wisconsin.

#### **Iowa**

Iowa nutrient management planning includes a nitrogen leaching index and, like Wisconsin, includes restrictions on manure applications near surface water, groundwater conduits, and frozen soil. Iowa requires 200 ft. setbacks from sinkholes and wells when manure is not incorporated and 0 ft. setback when manure is incorporated. There are no specific requirements for spreading manure over shallow bedrock soils in Iowa.

While Iowa operates a county-based statewide FPP in which landowners may restrict the use of their land to agricultural or related uses in exchange for tax credits, the program does not include conservation compliance requirements.

The Iowa Department of Agriculture and Land Stewardship offers both cost-sharing and incentive payment programs. Cost-sharing usually cannot exceed 50%, and they have an active watershed program similar to Wisconsin's old priority watershed program. Iowa also offers a revolving loan fund to fund conservation activities.

#### **Michigan**

Michigan's Generally Accepted Agricultural Management Practices (GAAMP) provide general recommendations to keep manure within the root zone of plants. GAAMPs have no specific manure setback recommendations from direct conduits (wells, sinkholes) and no recommendations for spreading manure in shallow bedrock soils.

While Michigan has a statewide FPP in which landowners may restrict the use of their land to agricultural or related uses in exchange for tax credits, the program does not include conservation compliance requirements.

The Michigan Department of Agriculture and Rural Development offers all 75 conservation districts base funding with the Michigan Agricultural Environmental Assurance Program (MAEAP). Cost-sharing is also available for MAEAP verification.

#### **Minnesota**

Minnesota has no specific requirements for manure applications on shallow soils over fractured bedrock. Minnesota recommends at least 2 ft. of soil between manure and fractured bedrock and avoid fall applications of manure (N loss).

While Minnesota has a statewide FPP in which landowners may restrict the use of their land to agricultural or related uses in exchange for tax credits, the program does not include conservation compliance requirements.

The Minnesota Department of Agriculture (MDA) offers grants via their Clean Water Fund, Agricultural Water Quality Certification Program (MAWQCP), and Revolving Loan Fund for Best Management Practices. The MAWQCP is designed to accelerate adoption of on-farm practices that protect Minnesota's waters, and the grant awards up to \$5000.00 to eligible producers implementing agricultural best management practices. MAWQCP-certified producers may receive annual payments of \$1,000 to help producers access new and reliable earned income streams for the environmental benefits they are providing. The MDA received \$21.7 million from the Clean Water Fund in 2020-2021 and the legislature appropriated \$20.24 million of Clean Water Funds for the MDA in 2022-2023. The MDA is using Clean Water Fund dollars to support a variety of programs, projects and activities.

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19. Contact Name

20. Contact Phone Number

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

Alex Elias

| (608) 224-6338

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This document can be made available in alternate formats to individuals with disabilities upon request.

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

### ATTACHMENT A

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

See section 14 above.

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

Existing county ordinances, outreach to private agricultural businesses, county staff, nonprofits, and the public. Acre estimates were developed with GIS and data was pulled using the National Land Cover Database for Wisconsin and the DNR's Thickness of Unconsolidated Materials Over Silurian Bedrock dataset. Nutrient management plan estimates were developed with data from the department's annual nutrient management plan survey to counties.

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

Allow cost-sharing for compliance

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

Implementation of the proposed rule will assist landowners with compliance with the Silurian bedrock performance standard which was passed in 2018. The rule adds DATCP 01 Verification of Depth to Bedrock Technical Standard as a voluntary tool farmers and landowners can use to verify the depth to bedrock in fields prior to mechanical application of manure. The rule also allows for cost-sharing to use this technical standard and to update a nutrient management plan to comply with the Silurian bedrock performance standard and establishes a delayed date of implementation. The rule requires landowners who claim farmland preservation tax credits to comply with the Silurian bedrock performance standard beginning April 1, 2027, if applicable, which is a delayed implementation date.

Updating standards and expanding the list of conservation practices that are eligible for cost share benefits producers, counties, and other small businesses in the agricultural sector by allowing state funds to be used more widely and for innovative projects. Updating the standards will result in increased consistency with practice implementation since some counties are requiring the most updated standards, while the state uses outdated standards. Stakeholders also benefit from updates in the rule that clarify definitions and processes, including adding a technical standard to verify depth to bedrock, adding a process for development of technical standards, and updating requirements and eligibility related to engineering certification and nutrient management planning.

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5. Describe the Rule's Enforcement Provisions

This is not a regulatory rule.

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
-

# Wisconsin Department of Agriculture, Trade and Consumer Protection

## Regulatory Flexibility Analysis

***Rule Subject:***      **Soil and Water Resource Management Program**

***Adm. Code Reference:***    **ATCP 50**

### *Rule Summary*

In 2018, the Wisconsin Department of Natural Resources (DNR) promulgated a targeted performance standard related to Silurian bedrock in ch. NR 151.075, Wis. Adm. Code, designed to minimize the risk for pathogen delivery to groundwater. The performance standard applies within parts of 16 counties in the Silurian bedrock area (Brown, Calumet, Dodge, Door, Fond du Lac, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha). The performance standard sets forth manure spreading rates and practices for mechanical manure application that vary according to the soil depth and texture. The most restrictive practices apply to those limited areas of the highest risk for pathogen delivery. Less restrictive requirements apply in areas with 5 to 20 feet to bedrock.

The Department of Agriculture, Trade and Consumer Protection (department) is responsible for developing and disseminating technical standards to implement the ch. NR 151 performance standards and prohibitions. The proposed revisions to ch. ATCP 50 adds Silurian bedrock as a farm conservation practice and describes the requirements farmers and landowners must meet to implement the performance standard. The rule adds DATCP 01 Verification of Depth to Bedrock Technical Standard as a voluntary tool farmers and landowners can use to verify the depth to bedrock. The rule also allows counties to cost-share the use this technical standard and to update a nutrient management plan to comply with the Silurian bedrock performance standard. It establishes a delayed date of implementation.

In addition to adding provisions to implement the Silurian bedrock performance standard, the rule does the following:

- Makes language updates and changes, including corrections to outdated provisions.
- Updates and adds definitions to clarify the meaning of important terms.
- Updates provisions related to soil and water conservation on farms.
- Updates requirements for administration of the soil and water resource management grant program.
- Updates and clarifies the process for counties to receive grants from the department.
- Adds options for providing financial assistance to landowners.
- Updates and adds maximum rates of financial assistance for some cropping practices.
- Clarifies and updates requirements and eligibility related to engineering certification and nutrient management planning.
- Adds a process for development of technical standards.
- Updates conservation practices and adds new conservation practices.

### *Small Businesses Affected*

This rule will mostly impact landowners and agricultural producers, many of whom qualify as small businesses. This rule may also impact agricultural service providers, such as certified crop consultants or agricultural engineers.

#### Landowners and Agricultural Producers

The proposed rule does not add any additional requirements beyond what DNR already included in their 2018 ch. NR 151 for agricultural producers. Instead, the rule focuses on identifying mechanisms for landowners to implement agricultural performance standards established by DNR, specifically the Silurian bedrock performance standard promulgated in 2018. The proposed rule incorporates Silurian bedrock as a farm conservation practice. The primary conservation practice to meet this agricultural performance standard is implementation of a nutrient management plan written to account for the Silurian bedrock performance standard. The rule identifies various tools to support landowners in implementing this performance standard including cost-sharing, delayed implementation, and access to a voluntary tool to determine if the agricultural performance standard applies or to determine which spreading restrictions apply. Additional changes in the proposed rule add options for meeting soil and water conservation needs by adding additional conservation practices and allow landowners to receive financial assistance in a form other than cost-sharing.

#### Agricultural Service Providers

The rule may impact businesses other than agricultural producers including nutrient management planners, certified crop consultants, farm supply organizations, manure haulers, agricultural engineering practitioners and consultants, and contractors. Proposed changes in the rule will likely lead to requests for assistance to update nutrient management plans and potential requests for assistance to verify depth to bedrock in cropland. Nutrient management plans may lead to farm management changes that require assistance or products from farm supply organization, agricultural engineering practitioners and consultants, contractors, certified crop consultants and manure haulers. Additional changes in the rule will enable architects to sign off on roof structure designs.

### ***Reporting, Bookkeeping and other Procedures***

The proposed rule does not create any new reporting, bookkeeping or other procedures for small businesses.

### ***Professional Skills Required***

The proposed rule does not require any new professional skills by small businesses.

### ***Accommodation for Small Business***

Implementation of the proposed rule will assist landowners with compliance with the Silurian bedrock performance standard which was passed in 2018. The rule adds DATCP 01 Verification of Depth to Bedrock Technical Standard as a voluntary tool farmers and landowners can use to verify the depth to bedrock in fields prior to mechanical application of manure. The rule also allows for cost-sharing to use this technical standard and to update a nutrient management plan to comply with the Silurian bedrock performance standard and establishes a delayed date of implementation. The rule requires landowners who claim farmland preservation tax credits to comply with the Silurian bedrock performance standard beginning April 1, 2027, if applicable, which is a delayed implementation date.

Updating standards and expanding the list of conservation practices that are eligible for cost share benefits producers, counties, and other small businesses in the agricultural sector by allowing state funds to be used more widely and for innovative projects. Updating the standards will result in increased consistency with practice implementation since some counties are requiring the most updated standards, while the state uses

outdated standards. Stakeholders also benefit from updates in the rule that clarify definitions and processes, including adding a technical standard to verify depth to bedrock, adding a process for development of technical standards, and updating requirements and eligibility related to engineering certification and nutrient management planning.

### *Conclusion*

The department expects the proposed rule to have a positive long-range impact on stakeholders because it will give more flexibility for farmers complying with DNR's Silurian Bedrock Performance Standards. Additionally, updating standards and expanding the list of conservation practices that are eligible for cost share benefits producers, counties, and other small businesses in the agricultural sector by allowing state funds to be used more widely and for innovative projects.

This rule will not have a significant adverse effect on small business and is not subject to the delayed small business effective date provided in s. 227.22 (2) (e), Stats.

The department will, to the maximum extent feasible, seek voluntary compliance with this rule.