



State of Wisconsin  
Governor Tony Evers

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

**DATE:** May 11, 2023

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

**FROM:** Randy Romanski, Secretary  
Brian Kuhn, Acting Administrator, Division of Agricultural Resource Management

**SUBJECT:** Wis. Admin. Code Ch. **ATCP 50 (Soil and Water Resource Management Program)**

**PRESENTED BY:** Coreen Fallat - Liaison, Bureau of Land and Water Resources

**REQUESTED ACTION:**

At the meeting of the Board on May 11, 2023, the Department will request approval of the attached hearing rule draft, regarding Wis. Admin. Code Ch. ATCP 50 relating to Soil and Water Resource Management Program, in order for the Department to submit the hearing rule package to the Legislative Council Rules Clearinghouse and hold a public hearing.

**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.

DATCP is responsible for developing and disseminating technical standards to implement the NR 151 performance standards and prohibitions. The proposed revisions to 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 of 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:

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- 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.

The Department will hold two public hearings on the hearing rule draft. The hearings will take place June 7, 2023, in Chilton and June 8, 2023, in Madison. The Madison hearing will have a virtual option.

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 (24) (Note) and (25) (Note), 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), ATCP 50.10 (1) (b) (Note), 50.12 (4) (b) (Note) and (5) (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) (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) 2. (Note), (1) (d) 3. (Note), (1) (e) (Note), (2) (a) (Note), and (2) (b) (1) (Note), 50.28 (3) (b) (Note) and (5) (a) 1. b. (Note), 50.28 (5) (a) 5. (Note), 50.30 (2) (a) (b) (c) (d) (e) (f) and (Note), 50.32 (1) (Note), (2) (c) (Note), (3) (a) (Note), and (5) (a) (Note), 50.32 (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 (4) (b) (Note), 50.34 (6) (a) 3. (Note) and 4. (Note), 50.36 (1) (Note) and (2) (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 (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), 50.50 (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), 50.60 (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), 50.68 (3), 50.705 (5) (b) (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) (c) (Note), 50.93 (4) (a) 2.; *to renumber* 50.84 (1) (am); *to renumber and amend*; *to amend* ATCP 50.01 (2), 50.01 (4), 50.01 (15m), and (2m), 50.01 (27) and (Note) and (28), 50.01

(36), 50.04 (1), (2), and (3) (a), 50.04 (3) (dm) 1. and (Note), (3) (e), and (3) (f) (4) (Note), 50.04 (3) (i), 50.06 (1) (a) and (2), 50.08 (1), 50.08 (3) (b), 50.10 (2), 50.12 (2) (a), (b), (c), (d), (f), (g), (h), (i), (L), and (3) (a), 50.16 (1) (a), 50.16 (3) (d), 50.26 (1), 50.28 (2) (b) 2., 50.28 (5) (a) 2., ATCP 50.30 (2), 50.32 (7) (a), 50.32 (8) (a), (c) 1., and (d), 50.34 (1), 50.34 (3) and (4) (a) 1. and 2., 50.34 (5m), 50.34 (6) (a) and (a) 2. and 3., 50.34 (6) (b), (7) (a) 1., and (7) (b), 50.36 (3), Subchapter V (title), 50.40 (1), 50.40 (10) (b), 50.40 (17), 50.42 (title) and (1), 50.46 (1) (d) and (2), 50.46 (5) (a) 2., 50.46 (7) (c), 50.46 (8) (a), 50.46 (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. And (4) (a), 50.56 (6), Subchapter VIII (title) and (Note), 50.61 (title) and (1), 50.61 (3), 50.62 (3) (d), 50.62 (5) (e) and (em) 1., 50.63 (5), 50.64 (1) (e), 50.64 (5) (a), 60.65 (3) (a) 1. and 2. and (Note), 50.66 (3) (a) 1., 2., and 3. and (Note), 50.67 (3) (a), (b), and (c), 50.68 (1), 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) 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., 50.84 (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); **repeal and recreate** 50.08 (5) (b), 50.42 (2); **and to create** ATCP 50.01 (2p), 50.01 (10m), (10r), and 13(d), 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), 50.38, 50.40 (11) (b) (5), 50.40 (14) (e), 50.41, 50.46 (5) (c), 50.48 (6) (a), (b), and (c), 50.50 (7) (c), 50.618, 50.62 (f) 1. and 2., 50.64 (5) (d), 60.65 (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 of compliance
- 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.

The reference to bona fide offer of cost-sharing when cost-sharing is required was revised to use the language “cost of compliance” for clarity and consistency with statutory language. 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 cost of compliance includes the cost of maintenance. 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 cover crop and 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. 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 to require nutrient management planners to provide reasonable documentation that 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 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.

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 phosphorous 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 16, 2023 to be included in the record of rule-making proceedings. Submit comments:

**By mail to:**

Alex Elias  
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 that comes into contact with feed or manure.~~ “Contaminated runoff” includes the liquid  
8 and any sediment, manure, feed, or other material carried in the liquid. “Contaminated runoff” contains  
9 lower concentrations than leachate from feed or manure.

10 ~~Note: “Contaminated runoff” contains lower concentrations of contaminants than leachate from feed or~~  
11 ~~manure.~~

12 **SECTION 2.** ATCP 50.01 (2p) is created to read:

13 ATCP 50.01 **(2p)** “Cost of compliance” means the cost to install and maintain a required conservation  
14 practice.

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

16 ATCP 50.01 **(4)** “Cost-share grant” means ~~a grant~~ financial assistance that reimburses a landowner for ~~all~~  
17 ~~or~~ part of the cost to install or maintain a conservation practice identified in the grant.

18 **SECTION 4.** ATCP 50.01 (10m), (10r), and (13d) are created to read:

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

22 **(10r)** “Incentive” means financial assistance in the form of a flat-rate payment or stipend made to a  
23 landowner to install conservation practices.

24 **(13d)** “Land conservation committee” means a committee created by a county board the meets the  
25 requirements in s. 92.06, Stats.

26 **SECTION 5.** ATCP 50.01 (15m) is amended to read:

27 ATCP 50.01 **(15m)** “Leachate” means the concentrated liquid which has percolated through, or drained  
28 from, animal feed or manure storage areas. “Leachate” contains much higher concentrations of  
29 contaminants than contaminated runoff.

30 ~~Note: “Leachate” contains much higher concentrations of contaminants than contaminated runoff.~~

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

32 **SECTION 7.** ATCP 50.01 (27) and (Note) and (28) are amended to read:

33 ATCP 50.01 (27) “NRCS ~~technical guide~~conservation practice standard” means the standard found in the  
34 Wisconsin NRCS field office technical guide, unless otherwise specified.

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

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

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

42 (b) ~~A farm nutrient plan prepared or approved, for a landowner, by a qualified nutrient management planner.~~

43 **Note:** ~~A nutrient management plan must comply with s. ATCP 50.04 (3).~~ a farm nutrient plan written by a  
44 qualified plan writer per s. ATCP 50.48 and meets the requirements specified under s. ATCP 50.04 (3) or  
45 50.62(5)(f).

46 **SECTION 8.** ATCP 50.01 (29s) is created to read:

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

50 **SECTION 9.** ATCP 50.01 (31) is repealed.

51 **SECTION 10.** ATCP 50.01 (32m) and (34m) are created to read:

52 ATCP 50.01 (32m) “Silurian bedrock” means the area in Wisconsin where the bedrock consists of Silurian  
53 dolomite with a depth to bedrock of 20 feet or less. This area comprises portions of the following counties:  
54 Brown, Calumet, Dodge, Door, Fond du Lac, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie,



55 Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha. Areas where Silurian bedrock occurs  
56 in Wisconsin can be identified by the most current NRCS, Wisconsin Geological Natural History Survey,  
57 department of agriculture, trade and consumer protection, department of natural resources, county maps, or  
58 infield bedrock verification methods.

59 **(34m)** “Technical standard” refers to standards for which the department or DNR is a custodian.

60 **SECTION 11.** ATCP 50.01 (36) is amended to read:

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

64 **SECTION 12.** ATCP 50.01 (37) (Note) is repealed.

65 **SECTION 13.** Subch. II (Note) is repealed.

66 **SECTION 14.** ATCP 50.04 (1), (2), and (3) (a) are amended to read:

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

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

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

78 **Note:** ~~See s. 92.025 (1), Stats., and s. NR 151.02. Soil erosion includes erosion caused by wind or water.~~

79 For most soils, “T-value” is equivalent to 2 to 5 tons of soil loss per acre per year. Sheet and rill soil erosion

80 ~~from water is calculated according to the RUSLE 2 equation, published by NRCS. Wind erosion is~~  
81 ~~calculated according to the NRCS Wind Erosion Prediction System (WEPS) model. Copies of RUSLE 2~~  
82 and the NRCS WEPS model are on file with the department and the legislative reference bureau. Copies of  
83 both models may also be obtained from the NRCS website at: <http://www.wi.nrcs.usda.gov/technical>.

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

87 **SECTION 15.** ATCP 50.04 (3) (c) (Note) is repealed.

88 **SECTION 16.** ATCP 50.04 (3) (dm) 1. and (Note), (e) and (f) are amended to read:

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

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

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

98 **Note:** The NRCS ~~technical guide~~ conservation practice standard 590 (December, 2015) and the companion  
99 document *Wisconsin Conservation Planning Technical Note WI-1* (February, 2016) are on file with the  
100 department and the legislative reference bureau. Copies are available from a county land conservation  
101 department, a NRCS field office, the national NRCS website at: <http://www.nrcs.usda.gov>, the Wisconsin  
102 NRCS website at: [www.wi.nrcs.usda.gov](http://www.wi.nrcs.usda.gov), or the department website at:  
103 [https://datcp.wi.gov/Pages/Programs\\_Services/ATCP50.aspx](https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx). ~~The NRCS technical guide standard 590~~  
104 ~~(December, 2015) includes the options for the development of a P management strategy when manure or~~

105 ~~organic by products are applied during the crop rotation using either the Phosphorus Index (PI) or Soil Test~~  
106 ~~Phosphorus Management Strategy. A person may obtain a checklist to gather information for a nutrient~~  
107 ~~management plan~~ Components of a nutrient management plan are summarized on a checklist. An example  
108 nutrient management checklist is available at ~~by visiting~~ the department's website at:  
109 [https://datcp.wi.gov/Pages/Programs\\_Services/ATCP50.aspx](https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx).

110 (f) The plan may not recommend nutrient applications that exceed the amounts required to achieve  
111 applicable crop fertility levels recommended by the University of Wisconsin–Extension in the 2012 edition  
112 of *Nutrient Application Guidelines for Field, Vegetable and Fruit Crops*, UWEX publication A2809, or in  
113 the latest edition of that publication if preferred by the landowner, unless the nutrient management planner  
114 can show that one or more of the following circumstances justifies the recommended application:

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

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

121 2. Excess nutrients are the result of an unforeseen change in the type of crop planted.

122 3. Excess nutrients are the result of manure applications made in the last year prior to the implementation  
123 of the nutrient management plan.

124 4. Other special agronomic conditions documented by the planner. A planner who wishes to justify higher  
125 applications shall include credible information to show that the higher applications will not materially  
126 increase environmental damage by following criteria outlined in the Wisconsin Conservation Planning  
127 Technical Note WI-1, Appendix 3 Guidelines for Adaptive Nutrient Management (February 2016).

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

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

133 **SECTION 17.** 50.04 (3) (h) and (Note) are repealed.

134 **SECTION 18.** ATCP 50.04 (3) (i) is amended to read:

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

138 **SECTION 19.** ATCP 50.04 (4) (b) 2. d. (Note) is repealed.

139 **SECTION 20.** ATCP 50.04 (4) (c) is created to read:

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

142 **SECTION 21.** ATCP 50.04 (5) is created to read:

143 ATCP 50.04 (5) SILURIAN BEDROCK.

144 (a) A landowner shall manage cropland to achieve compliance with DNR performance standard for Silurian  
145 Bedrock under s. NR 151.075.

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

147 1. They mechanically apply manure to cropland or pasture areas.

148 2. The cropland is located in an area of Silurian bedrock defined under s. NR 151.015 (17).

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

150 1. The landowner complies with a nutrient management plan that meets the following:

151 a. The nutrient management plan is written in accordance with s. ATCP 50.04 (3).

152 b. The nutrient management plan incorporates the restrictions and prohibitions set forth in s. NR151.075

153 where applicable.

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

155 a. Silurian bedrock maps available from any of the following:

156 1. NRCS soil survey maps.

157 2. Maps developed by the department of agriculture, trade and consumer protection and/or department of  
158 natural resources.

159 3. Maps available from the University of Wisconsin department of soil science.

160 4. Maps available from the Wisconsin geological and natural history survey.

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

162 c. The landowner uses weather and precipitation predictions to determine the appropriate timing of manure  
163 application.

164 **Note:** The Runoff Risk Advisory Forecast shows the highest risk within the forecast period of 3 days, except  
165 when frozen soils or snow are present when this forecast period is increased to 10 days, found at  
166 <https://www.manureadvisorysystem.wi.gov/runoffrisk/index>.

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

168 **SECTION 22.** ATCP 50.06 (1) (a) and (2) are amended to read:

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

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

173 **SECTION 23.** ATCP 50.06 (2) (Note) is repealed.

174 **SECTION 24.** ATCP 50.08 (1) is amended to read:

175 ATCP 50.08 (1) GENERAL A landowner engaged in agricultural practices in this state is not required to do  
176 any of the following, under s. ATCP 50.04, unless the landowner receives a ~~bona fide offer of cost sharing~~:

177 written offer of cost-sharing for at least 70% of the cost of compliance, or from 70% to 90% of the cost of  
178 compliance if there is an economic hardship under s. ATCP 50.42 (4):

179 **SECTION 25.** ATCP 50.08 (1) (a) (Note), (b) (Note), and (2) and (Note) are repealed.

180 **SECTION 26.** ATCP 50.08 (3) (b) is amended to read:

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

185 **SECTION 26.** ATCP 50.08 (3) (c), (d) (Note), (4) (c) (Note), and (5) (a) (Note) are repealed.

186 **SECTION 27.** ATCP 50.08 (5) (b) is repealed and recreated to read:

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

- 189 1. Cover crops as defined in s. ATCP 50.68 (1).
- 190 2. Nutrient management as defined in s. ATCP 50.78 (1).
- 191 3. Residue management as defined in s. ATCP 50.82 (1).
- 192 4. Conservation crop rotation as defined in s. ATCP.668 (1).

193 **SECTION 28.** ATCP 50.10 (1) (b) (Note) is repealed.

194 **SECTION 29.** ATCP 50.10 (2) is amended to read:

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

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

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

200 **SECTION 30.** ATCP 50.12 (2) (a), (b), (c), (d), (f), (g), (h), (i), (L), and (3) (a) are amended to read:

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

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

207 ~~Note: See state rules under chs. ATCP 48, ATCP 50, NR 151, and NR 243.~~

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

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

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

215 ~~Note: The identification of priority farms may vary between counties, depending on local conditions,~~  
216 ~~strategies, and information. A county should focus on identifying or working with the following farms, or~~  
217 ~~other categories of farms that the county identifies in its plan:~~

218 ~~•Farms subject to a DNR notice of intent under s. 281.20, Stats., or notice of discharge under ch. 283, Stats.~~

219 ~~•Farms located in watersheds draining to waters that DNR has listed pursuant to 33 USC 1313. This is also~~  
220 ~~known as the "303(d) list of impaired waters."~~

221 ~~•Farms that have large numbers of livestock, or significant problems with manure management.~~

222 ~~•Farms making clearly excessive nutrient applications.~~

223 ~~•Farms with clearly excessive rates of cropland erosion.~~

224 (g) County strategies to encourage voluntary implementation of conservation practices under s. ATCP  
225 50.04. A county shall ~~estimate the amount of~~ consider and include information and education, cost-sharing  
226 and other financial assistance, and technical assistance needed to implement its plan.

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

230 ~~Note: See ss. ATCP 50.04 to 50.08 and subch. VII.~~

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

235 ~~Note: The county workplan under par. (i) should be based on a reasonable assessment of available funding~~  
236 ~~and resources.~~

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

239 ~~Note: The department and DNR will work with counties to develop more detailed guidelines and~~  
240 ~~suggestions for county land and water resource management plans, but individual counties have some~~  
241 ~~flexibility and discretion to propose plans that are appropriate for their local conditions.~~

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

246 ~~Note: A local advisory committee should reflect a broad spectrum of public interests and perspectives. For~~  
247 ~~example, it could include:~~

248 ~~•Affected farmers, businesses, and landowners.~~



249 ~~•Agricultural, business, environmental, civic, and recreational organizations.~~

250 ~~•Federal, state, local, and tribal officials.~~

251 ~~•The University of Wisconsin and other educational institutions.~~

252 **SECTION 31.** ATCP 50.12 (4) (b) (Note) and (5) (Note) are repealed.

253 **SECTION 32.** ATCP 50.16 (1) (a) is amended to read:

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

256 ~~**Note:** The soil and water conservation standards are promulgated by the department under ss. 92.05 (3) (e)  
257 and (k), 92.14 (8), and 281.16 (3) (b) and (c), Stats. See also s. 91.80, Stats. A county land conservation  
258 committee or its designee determines whether a landowner is in compliance with conservation standards.  
259 A determination of compliance is one component of the requirements a landowner must satisfy to claim a  
260 farmland preservation tax credit. Landowners are responsible to determine whether they meet all the  
261 eligibility requirements to claim the benefits of compliance.~~

262 **SECTION 33.** ATCP 50.16 (1) (e) and (2) (d) are created to read:

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

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

271 **SECTION 34.** ATCP 50.16 (3) (c) (Note) is repealed.

272 **SECTION 35.** ATCP 50.16 (3) (d) is amended to read:

273 ATCP 50.16 (3) (d) The land conservation committee approves the performance schedule, including the  
274 required practices and the time allowed to achieve compliance. The land conservation committee may  
275 establish shorter periods to achieve compliance ~~that~~ than the 5 year maximum allowed under this  
276 subsection. A landowner is considered to be implementing ~~his or her~~ their performance schedule if the  
277 landowner is making reasonable progress in installing the required practices and is taking other appropriate  
278 actions in the time frame identified by the land conservation committee in the performance schedule to  
279 achieve compliance.

280 **SECTION 36.** ATCP 50.16 (3) (d) (Note), (4) (a) (Note), (5) (c) (2) (Note), (5) (d) (Note), (6) (b) (3)  
281 (Note), and (6) (d) (Note) are repealed.

282 **SECTION 37.** ATCP 50.18 (1) (b) (Note) and (1) (c) are repealed.

283 **SECTION 38.** ATCP 50.20 (Note) is repealed.

284 **SECTION 39.** ATCP 50.24 (1) (Note) is repealed.

285 **SECTION 40.** ATCP 50.26 (1) is amended to read:

286 ATCP 50.26 (1) ANNUAL APPLICATION. A county land conservation committee shall apply to the  
287 department by April 15 of each year on a form provided by the department by January 31<sup>st</sup> of each year, to  
288 obtain funding under this chapter for the next calendar year. ~~The committee shall apply to the department~~  
289 ~~on a form provided by the department.~~ The application shall comply with this section.

290 **SECTION 41.** ATCP 50.26 (1) (Note), (2) (a) (Note), (2) (b) (Note), (3) (b) (Note), and (4) (Note) are  
291 repealed.

292 **SECTION 42.** ATCP 50.28 (1) (c) 3. (Note), (1) (d) 3. (Note), (1) (e) (Note), (2) (a) (Note), and (2) (b) (1)  
293 (Note) are repealed.

294 **SECTION 43.** ATCP 50.28 (2) (b) 2. is amended to read:

295 ATCP 50. 28 (2) (b) 2. Obtain LWCB recommendations on the annual grant allocation plan, as required  
296 under s. 92.14 (6) (b) and (d), Stats. At least 30 days before the department obtains the LWCB's final  
297 recommendations, the department shall provide to DNR, the LWCB, and every county land conservation

298 committee a copy of the draft plan on which the department seeks the LWCB's final recommendations and  
299 a copy of the draft environmental assessment written under ch. ATCP 3.02 (h) that accompanies the  
300 allocation plan.

301 ~~Note: If the department makes material revisions to the preliminary draft plan before seeking final LWCB~~  
302 ~~recommendations, the department will re-issue the revised draft at least 30 days before the LWCB makes~~  
303 ~~its recommendations.~~

304 **SECTION 44.** ATCP 50.28 (2) (b) 3. is created to read:

305 ATCP 50.28 (2) (b) 3. If the department makes material revisions to the preliminary draft plan before  
306 seeking final LWCB recommendations, the department will re-issue the revised draft at least 30 days before  
307 the LWCB makes its recommendations.

308 **SECTION 45.** ATCP 50.28 (3) (b) (Note) and (5) (a) 1. b. (Note) are repealed.

309 **SECTION 46.** ATCP 50.28 (5) (a) 2. is amended to read:

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

315 **SECTION 47.** ATCP 50.28 (5) (a) 5. (Note) is repealed.

316 **SECTION 48.** ATCP 50.30 (2) is amended to read:

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

320 **SECTION 49.** ATCP 50.30 (2) (a) (b) (c) (d) (e) (f) and (Note) are repealed.

321 **SECTION 50.** 50.32 (1) (Note), (2) (c) (Note), (3) (a) (Note), and (5) (a) (Note) are repealed.

322 **SECTION 51.** ATCP 50.32 (5) (am) is created to read:

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

325 **SECTION 52.** ATCP 50.32 (7) (a) is amended to read:

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

332 ~~Note: The department does not provide paper copies of its grant forms. To obtain the most current program~~  
333 ~~grant forms, including the form to request reimbursement from the department, counties should refer to the~~  
334 ~~program's working manual on the department website at:~~

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

336 **SECTION 53.** ATCP 50.32 (7) (c) and (7) (d) (Note) are repealed.

337 **SECTION 54.** ATCP 50.32 (8) (a), (c) 1., and (d) are amended to read:

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

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

344 (d) A county receiving an annual staffing grant under this chapter shall maintain its annual soil and water  
345 resource management expenditures ~~at or above the average annual amount that the county expended in the~~  
346 ~~years 1985 and 1986~~, as required by s. 92.14 (7), Stats. A county may count, as part of its contributions  
347 under this paragraph, county expenditures for employees and independent contractors who work for the

348 county land conservation committee. A county may not count capital improvement expenditures, or the  
349 expenditure of grant revenues that the county receives from other governmental entities.

350 **SECTION 55.** ATCP 50.32 (10) (Note) and (11) (b) (Note) are repealed.

351 **SECTION 56.** ATCP 50.34 (1) is amended to read:

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

356 **SECTION 57.** ATCP 50.34 (1) (d) (Note) and (2) (b) (Note) are repealed.

357 **SECTION 58.** ATCP 50.34 (3) and (4) (a) 1. and 2. are amended to read:

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

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

366 ~~Note: The department must approve any cost share contract that exceeds \$50,000. See s. ATCP 50.40 (8).~~

367 (b) Certify the amount of reimbursement due.

368 (c) Certify, based on documentation possessed by the county, that all applicable conditions in s. ATCP  
369 50.40 (10) to (12) and (14) and 50.41 are met.

370 ~~Note: Department forms will specify the documentation a county must provide under par. (a) with its~~  
371 ~~reimbursement request, or in lieu of documentation, the information the county must certify under par. (c).~~  
372 ~~When a county land conservation committee is not required to submit documentation and provides, instead,~~

373 ~~its certification under par. (c), it must keep that supporting documentation on file as required by sub. (7).~~

374 ~~The committee must make the documentation available to the department and grant auditors upon request.~~

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

378 (4) (a) 1. To finance ~~cost-shared~~ conservation practices identified in subch. VIII, except that bond revenue  
379 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.

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

382 ~~Note: See s. ATCP 50.40 (7).~~

383 **SECTION 59.** ATCP 50.34 (4) (b) (Note) is repealed.

384 **SECTION 60.** ATCP 50.34 (5m) is amended to read:

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

387 (a) The grant funds subject to the transfer were not previously extended by the transferring county.

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

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

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

397 ~~Note: Transferred funds may be extended by the receiving county into the subsequent grant year for the~~  
398 ~~same project, subject to sub. (6).~~

399 **SECTION 61.** ATCP 50.34 (5m) (e) is created to read:

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

401 **SECTION 62.** ATCP 50.34 (6) (a) and (a) 2. and 3. are amended to read:

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

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

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

410 **SECTION 63.** ATCP 50.34 (6) (a) 3. (Note) and 4. (Note) are repealed.

411 **SECTION 64.** ATCP 50.34 (6) (b), (7) (a) 1., and (7) (b) are amended to read:

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

417 ~~Note: A county may make partial payments for completed portions of a cost-shared practice, as provided~~  
418 ~~in s. ATCP 50.40 (12).~~

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

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

425 **SECTION 65.** ATCP 50.36 (1) (Note) and (2) (Note) are repealed.

426 **SECTION 66.** ATCP 50.36 (3) is amended to read:

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

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

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

433 ~~Note: The department may seek other administrative or judicial sanctions, as appropriate. A grant recipient~~  
434 ~~may appeal an administrative sanction under this section, to the extent provided under ch. 227, Stats.~~

435 **SECTION 67.** ATCP 50 Subchapter V (title) is amended to read:

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

437 **SECTION 68.** ATCP 50.38 is created to read:

438 ATCP 50.38 Financial Assistance to Landowners

439 **(1) GENERAL**

440 (a) A county land conservation committee may use grant funds awarded to the county under ss. ATCP  
441 50.34 or 50.35 to provide financial assistance to landowners.

442 (b) A county land conservation committee's authority to acquire and distribute grant funds from other  
443 sources is not restricted by this subchapter.

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

445 1. The landowners who will receive financial assistance.



- 446 2. The conservation practices that will be eligible for financial assistance.
- 447 3. The form of financial assistance.
- 448 4. The costs for each conservation practice or conservation performance measure that will receive financial  
449 assistance
- 450 5. The rate of financial assistance.

451 (d) No county employee or land conservation committee member may:

- 452 1. Take any official action substantially affecting a matter which the individual, a member of their  
453 immediate family, or an organization with which the individual is associated has a substantial financial  
454 interest.
- 455 2. Use their office or position in a way that produces or assists in the production of substantial benefit,  
456 direct or indirect, for the individual, one or more members of the individual's immediate family either  
457 separately or together, or an organization with which the individual is associated.

458 **SECTION 69.** ATCP 50.40 (1) is amended to read:

459 ATCP 50.40 (1) GENERAL. ~~(a)~~ A county land conservation committee may use grant funds awarded to the  
460 county under s. ATCP 50.34 to make cost-share grants to landowners for any of the purposes authorized  
461 under s. ATCP 50.34

462 (1). Cost-share grants shall comply with this subchapter.

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

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

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

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

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

479 **SECTION 70.** ATCP 50.40 (2) (d) (Note), (3) (Note), (9) (j) (Note), (9) (L) (Note), and (9) (o) (Note) are  
480 repealed.

481 **SECTION 71.** ATCP 50.40 (10) (b) is amended to read:

482 ATCP 50.40 **(10)** (b) Installed in compliance with applicable construction site erosion control standards  
483 contained in the DNR Storm Water Construction Technical Standards, in effect on ~~May 1, 2014~~ June 1,  
484 2018.

485 **SECTION 72.** ATCP 50.40 (11) (b) (4) and (Note) are repealed.

486 **SECTION 73.** ATCP 50.40 (11) (b) (5) is created to read:

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

489 **SECTION 74.** ATCP 50.40 (14) (d) (Note) is repealed.

490 **SECTION 75.** ATCP 50.40 (14) (e) is created to read:

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

492 **SECTION 76.** ATCP 50.40 (16) (a) (Note), (b) (Note), and (c) (Note) are repealed.

493 **SECTION 77.** ATCP 50.40 (17) is amended to read:

494 ATCP 50.40 **(17)** COMBINED GRANTS. Cost-share grants under this chapter may be combined with grants  
495 from other federal, state, local, and private sources. Except as restricted under s. ATCP 50.42 (1),

496 department funds allocated under this chapter may be combined with DNR funds allocated under s. 281.65  
497 or 281.66, Stats., to finance up to 70% of the total cost of a project, or up to 90% in cases of economic  
498 hardship under s. ATCP 50.42 (4). This subsection does not limit the use of cost-share funds or financial  
499 assistance from other sources, including other sources authorized under state law. A cost-share grant under  
500 this chapter may not reimburse a landowner for any costs that another governmental entity is also  
501 reimbursing.

502 **SECTION 78.** ATCP 50.40 (17) (Note), (18) (Note), and (19) are repealed.

503 **SECTION 79.** ATCP 50.41 is created to read:

504 **ATCP 50.41 Other forms of financial assistance**

505 **(1) OTHER FORMS OF FINANCIAL ASSISTANCE.** Counties may use funds granted under ss. 50.34 and 50.35  
506 to provide other forms of financial assistance to landowners, including:

507 (a) Incentive payments

508 (b) Performance Payments

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

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

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

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

515 (c) Activities prohibited under s. 50.40 (3) (b).

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

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

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

520 (b) The purpose for the financial assistance.

- 521 (c) The rate or amount of financial assistance.
- 522 (d) A timetable for completing the contract requirements.
- 523 (e) The terms the landowner must meet to receive the financial assistance.
- 524 (f) An agreement that the landowner will repay the full amount of the financial assistance immediately,  
525 upon demand by the county land conservation committee, if the landowner fails to meet the terms of the  
526 contract.
- 527 (g) Provisions authorizing the county land conservation committee to withhold financial assistance if the  
528 committee finds that the landowner has breached the contract.
- 529 (h) Other terms or conditions specified by the county land conservation committee.

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

533 **Section 80.** ATCP 50.42 (title) and (1) are amended to read:

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

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

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

543 **Note:** ~~The maximum cost share rates in this section and other sections were established to meet the~~  
544 ~~requirements of s. 281.16 (3) (e), Stats., which provides that an owner or operator of an agricultural facility~~  
545 ~~may not be required by the state or a municipality to comply with the performance standards, prohibitions,~~

546 ~~conservation practices, or technical standards unless cost sharing is available for at least 70% of the cost of~~  
547 ~~compliance, or is 70% to 90% of the cost of compliance in cases of economic hardship. These maximum~~  
548 ~~cost share rates are not required for the practices specified in s. ATCP 50.42 (1) (dg) and (dr).~~

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

551 (bm) The economic hardship provision under sub. (4) is available to owners and grant recipients who  
552 operate farms and is not available to non-farmers.

553 (c) For cropping practices identified in sub. (2), a county land conservation committee may pay up to the  
554 amount authorized under this subsection or sub. (2), whichever is higher.

555 (d) For more than ½ acre of riparian land taken out of agricultural production to install a conservation  
556 practice, a county land conservation committee may pay a qualified landowner up to the CREP-equivalent  
557 amount authorized in s. ATCP 50.08 (4) if that amount exceeds the relevant amount authorized under this  
558 subsection.

559 (dg) The cost-share payments for the following conservation practices may not exceed 50% of the total  
560 eligible costs to install and maintain the practice unless the landowner is required to install the practice to  
561 achieve compliance with an agricultural performance standard ~~on cropland, pastures, or a livestock~~  
562 ~~operation~~ ss. NR 151.02 to 151.08, in effect as of June 1, 2018:

- 563 1. Access roads under s. ATCP 50.65.
- 564 2. Roof runoff systems under s. ATCP 50.85.
- 565 3. Streambank or shoreline protection under s. ATCP 50.88.
- 566 4. Stream crossing under s. ATCP 50.885.
- 567 5. Wetland development or restoration under s. ATCP 50.98.

568 (dr) The cost-share payments for any conservation practice installed on land owned by a local governmental  
569 unit may not exceed 50% of the total eligible costs to install and maintain the practice.

570 ~~Note: County employees and land conservation committee members are subject to the conflict of interest~~  
571 ~~provisions of s. ATCP 50.40 (19) when providing cost-sharing to the local governmental units with which~~  
572 ~~they are affiliated.~~

573 (e) A county land conservation committee may provide cost-share funds, at the rate authorized under this  
574 subsection, to replace a cost-shared conservation practice that is damaged or destroyed by natural causes  
575 beyond the landowner's control.

576 ~~Note: See s. ATCP 50.08 and s. 92.14 (6) (gm), Stats. Paragraphs (c) and (d) provide "short-cut" alternatives~~  
577 ~~for determining cost share payments in some cases. These methods do not require a case by case~~  
578 ~~computation of "cost." A county is not required to use these alternative methods, except as provided in s.~~  
579 ~~ATCP 50.08 (4).~~

580 **SECTION 81.** ATCP 50.42 (2) is repealed and recreated to read:

581 ATCP 50.42 (2) CROPPING PRACTICES; MAXIMUM AMOUNTS. A county land conservation committee may  
582 pay up to the following amounts for the installation or maintenance of the following crop- ping practices:

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

584 (b) For stripcropping, \$13.50 per acre.

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

586 (d) For nutrient management, \$10 per acre per year for new nutrient management plan development, and  
587 \$5 per acre for a one-time nutrient management plan update prior to April 1, 2027in areas impacted by the  
588 Silurian bedrock performance standards outlined in s. NR 151.075.

589 (e) For conservation crop rotation, \$10 per acre per year.

590 (f) For harvestable buffers, annual per-acre financial assistance shall not exceed soil rental rates set by the  
591 United States department of agriculture.

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

594 **SECTION 82.** ATCP 50.42 (5) (Note) is repealed.

595 **SECTION 83.** ATCP 50.46 (1) (a) 1. (Note) and (1) (b) (Note) are repealed.

596 **SECTION 84.** ATCP 50.46 (1) (d) and (2) are amended to read:

597 ATCP 50.46 **(1)** (d) Notwithstanding par. (c), a well driller or pump installer registered under s. 280.15,  
598 Stats., may certify a well construction or decommissioning under sub. (1) and an architect registered under  
599 ch. 443, Stats., may certify a roof under sub. (1).

600 **(2)** Conservation engineering practices. For purposes of this section, a conservation engineering  
601 practice includes any of those practices identified in subch. VIII, authorized by the department  
602 under s. ATCP 50.40 (3), allowed under s. 281.65, Stats., or approved and published, as part of the  
603 NRCS field office technical guide or as a formal technical standard by the DNR.

604 **SECTION 85.** ATCP 50.46 (2m) (b) (Note) and (3) (a) (Note) are repealed.

605 **SECTION 86.** ATCP 50.46 (5) (a) 2. is amended to read:

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

610 **SECTION 87.** ATCP 50.46 (5) (a) 3. (Note) and (5) (b) is repealed.

611 **SECTION 88.** ATCP 50.46 (5) (c) is created to read:

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

616 **SECTION 89.** ATCP 50.46 (7) (c), (8) (a) and (c), (9) (c) 1., and (11) (b) are amended to read:

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

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

624 (c) If an appeal cannot be resolved after an informal meeting under par. (b), the field engineer shall forward  
625 the appeal to a department reviewer designated by the administrator of the department's agricultural  
626 resource management division. The reviewer shall hold an informal hearing on the appeal within 10  
627 business days after the reviewer receives the appeal, unless the applicant agrees to a later date for the  
628 informal hearing. The reviewer shall hold the informal hearing by telephone or at a location determined by  
629 the reviewer. Within 10 business days after the conclusion of the informal hearing, the reviewer shall issue  
630 a written decision which affirms, reverses, or modifies the field engineer's action. The reviewer shall  
631 provide a copy of ~~his or her~~ their written decision to the applicant. The decision shall include a notice of  
632 the applicant's right to request a contested case hearing under par. (d).

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

635 **(11)** (b) Any engineered practice designed by a person certified under this section shall include project  
636 documentation establishing that the practice was designed according to applicable standards, and that the  
637 design was reviewed and approved for compliance with those standards. Any person approving a design  
638 shall have job approval authority at the level required by the engineered practice. For practices requiring a  
639 job class authority of III or higher, at least one person other than the practice designer shall review ~~and~~  
640 ~~approve~~ the design and approve as being checked. For practices requiring job class authority of I or II, the  
641 person preparing the design may also review and approve the design.

642 **SECTION 90.** ATCP 50.48 (1) (a), (2) (a) 4., (2) (c) (Note), (4) and (6) are amended to read:

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



644 (2) (a) 4. The holder of other credentials that the department deems equivalent to those specified under  
645 subds. 1. to 3. A landowner is presumptively qualified to prepare a nutrient management plan for ~~his or her~~  
646 their farm, but not for others, if the landowner completes a department-approved training course that results  
647 in a nutrient management plan in compliance with s. ATCP 50.04 (3) and the course instructor approves  
648 the landowner's first annual plan. The landowner shall complete a department-approved training course at  
649 least once every 4 years to maintain ~~his or her~~ their presumptive qualification. The course instructor is not  
650 required to hold credentials listed in subds. 1. to 3., but ~~he or she~~ they must be knowledgeable and competent  
651 in accordance with sub. (1).

652 (c) **Note:** The department does not affirmatively certify nutrient management planners. A nutrient  
653 management planner who meets all of the requirements under sub. (2) may represent ~~himself or herself~~  
654 themselves as a qualified nutrient planner, without any certificate from the department. A person qualified  
655 only to prepare ~~his or her~~ their own nutrient management plan under sub. (2) (a) 4. may not misrepresent  
656 that ~~he or she is~~ they are qualified to prepare nutrient management plans for others.

657 (4) **DISQUALIFICATION.** The department may issue a written notice to an individual, declaring that the  
658 individual is not a qualified nutrient management planner under this section. The notice shall specify the  
659 basis for the department's declaration. The department may disqualify a nutrient management planner if the  
660 planner violates or fails to provide reasonable documentation of compliance with sub. (3) or lacks  
661 qualifications required under sub. (1). A person who is named in a disqualification notice under sub. (4)  
662 may request a contested case hearing under s. 227.42, Stats., and ch. ATCP 1.

663 ~~**Note:** A person who is named in a disqualification notice under sub. (4) may request a contested case~~  
664 ~~hearing under s. 227.42, Stats., and ch. ATCP 1.~~

665 (6) **RECORDS.** A qualified nutrient management planner shall keep copies of all nutrient management plans  
666 that the qualified nutrient management planner prepares or approves for funding under ss. 91.14 or 281.65  
667 or 281.66, Stats., or this chapter for a landowner claiming farmland preservation tax credits under s. 71.613,  
668 Stats. The qualified nutrient management planner shall retain the records for at least 4 years, and shall make

669 them available for inspection and copying by the department or its agent upon request. The qualified  
670 nutrient management planner under s. ATCP 50.48 (3) shall complete the nutrient management checklist  
671 form provided by the department. The qualified nutrient management planner shall have reasonable  
672 documentation to substantiate each checklist response. ~~The qualified nutrient management planner and~~ shall  
673 provide it to the department or its agent upon request and in a format that allows for determination of  
674 compliance with s. ATCP 50.04 (3). Minimum documentation requirements are outlined in NRCS  
675 conservation practice standard 590 nutrient management (December 2015) and Wisconsin Conservation  
676 Planning Technical Note WI-1 (February, 2016) and include:

677 **SECTION 91.** ATCP 50.48 (6) (a), (b), (c) and note are created to read:

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

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

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

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

685 **SECTION 92.** ATCP 50.50 (1) (Note) is repealed.

686 **SECTION 93.** ATCP 50.50 (2) (d) 5. (Note) is amended to read:

687 ATCP 50.50 **(2)** (d) 5. **Note:** Copies of the Nutrient Application Guidelines for Field, Vegetable, and Fruit  
688 Crops in Wisconsin. *UWEX Publication A2809* (2012) and the *Wisconsin Procedures for Soil Testing, Plant*  
689 *Analysis and Feed & Forage Analysis, Soil Fertility Series* (October, 2013) are on file at the department  
690 and legislative reference bureau. To obtain a copy of the A2809, see s. ATCP 50.04 (3) (f) 4. (note). Copies  
691 of the Wisconsin Procedures publication are available at the University of Wisconsin website at:  
692 ~~<http://uwlabs.soils.wisc.edu/lab-procedures>~~ [https://uwlabs.soils.wisc.edu/about-us/lab-procedures-and-](https://uwlabs.soils.wisc.edu/about-us/lab-procedures-and-methods/)  
693 [methods/](https://uwlabs.soils.wisc.edu/about-us/lab-procedures-and-methods/).

694 **SECTION 94.** ATCP 50.50 (7) (b) (Note) is repealed.

695 **SECTION 95.** ATCP 50.50 (7) (c) is created to read:

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

698 **SECTION 96.** ATCP 50.50 (8) (c) (Note) is repealed.

699 **SECTION 97.** ATCP 50.52 (1) (f) (Note) and (g) (Note) is repealed.

700 **SECTION 98.** ATCP 50.52 (2) (c) is amended to read:

701 ATCP 50.52 (2) (c) The University of Wisconsin-~~Extension~~.

702 **SECTION 99.** ATCP 50.54 (1) (Note) is amended to read:

703 ATCP 50.54 (1) **Note:** ~~"Local regulations" are defined in s. ATCP 50.01 (18).~~ Local conservation  
704 requirements should be consistent with this chapter (see ss. 92.05 (1), (3) (c) and (L), 92.07 (2), 92.11,  
705 92.15 (2) to (4), 92.16, 92.17, 93.90, and 281.16 (3), Stats.). ~~The department may review and comment on~~  
706 ~~local regulations, as it deems necessary. See specific requirements related to manure storage ordinances (s.~~  
707 ~~ATCP 50.56), agricultural shoreland management ordinances (s. ATCP 50.58), and livestock ordinances~~  
708 ~~(s. ATCP 50.60).~~ A local regulation may not require a livestock operator to obtain a license or permit for a  
709 new or expanding livestock operation, except as specifically authorized under s. 93.90, Stats., and ch. ATCP  
710 51. When exercising their approval authority under the livestock facility siting law, political subdivisions  
711 ~~are~~ may be limited in their application of local manure storage ordinances adopted under s. 92.16, Stats.,  
712 and s. ATCP 50.56. (See s. ATCP 51.18 ~~(6) (Note)~~ 10 (1)).

713 **SECTION 100.** ATCP 50.56 (2) (c) (Note), (3) (b) 2. (Note 1), and (3) (b) 3. (Note) are repealed.

714 **SECTION 101.** ATCP 50.56 (3) (b) 4. and (4) (a) are amended to read:

715 ATCP 50.56 (3) (b) 4. Require consistency with state performance standards and prohibitions, and require  
716 construction in accordance with ~~technical~~ conservation practice standards including all of the following:

717 a. NRCS ~~technical guide~~ conservation practice standard 313 waste storage facility ~~standard 313~~ (January,  
718 2014-October, 2017).

719 b. NRCS ~~technical guide~~ conservation practice standard 634 waste transfer ~~standard 634~~ (November, 2022).

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

721 d. Applicable DNR requirements under s. 281.65 (4) (g) 5., Stats.

722 (4) (a) Submits a closure plan for approval by the county, city, village, or town. The closure plan shall  
723 comply with the waste facility closure provisions contained in the NRCS ~~technical guide, closure of waste~~  
724 ~~impoundments standard 360~~ conservation practice standard 360 waste facility closure (~~March, 2013~~ June,  
725 2021).

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

728 **SECTION 102.** ATCP 50.56 (4) (c) (Note) is repealed.

729 **SECTION 103.** ATCP 50.56 (6) is amended to read:

730 ATCP 50.56 (6) DEPARTMENT OVERSIGHT. The department may require a county, city, village, or town to  
731 ~~do either of the following~~ submit a proposed or adopted ordinance to the department for review to determine  
732 consistency with this chapter in connection with the administration of an ordinance under s. 92.16, Stats.÷  
733 The department may ask the county, city, village, or town for information that it needs to perform the  
734 review.

735 (a) ~~Use a department approved application for permitting the construction or closure of a manure storage~~  
736 ~~system or structure.~~

737 (b) ~~Submit a proposed or adopted ordinance to the department for review to determine consistency with~~  
738 ~~this chapter. The department may ask the county, city, village, or town for information that it needs to~~  
739 ~~perform the review~~

740 **SECTION 104.** ATCP 50.60 (2) (b) (Note) is repealed.

741 **SECTION 105.** ATCP Subchapter VIII (title) and (Note) are amended to read:

742 **ATCP Subchapter VIII — Standards for ~~Cost-Shared Practices~~ Receiving Financial Assistance**

743 **Note:** For information on how to obtain NRCS ~~technical guide~~ conservation practice standards and any  
744 other standards required under this subchapter, including any secondary standards incorporated by reference  
745 in those standards, a person may visit the department website at:  
746 [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  
747 following address:

748 Wisconsin Department of Agriculture, Trade and Consumer Protection  
749 Division of Agricultural Resource Management  
750 P.O. Box 8911  
751 Madison, WI 53708-8911

752 **SECTION 106.** ATCP 50.61 (title) and (1) is amended to read:

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

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

759 **SECTION 107.** ATCP 50.61 (2) (Note) is repealed.

760 **SECTION 108.** ATCP 50.61 (3) is amended to read:

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

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

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

770 (c) The landowner voluntarily agrees, in writing, to the use of the updated standard to implement the  
771 conservation practice.

772 **SECTION 109.** ATCP 50.61 (4) (c) (Note) is repealed.

773 **SECTION 110.** ATCP 50.618 is created to read:

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

775 (a) **GENERAL.** The department, in consultation with the department of natural resources, shall develop and  
776 revise technical standards to implement the performance standards and prohibitions under s. 281.16 (3) (a),  
777 Stats., if needed.

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

- 779 1. Develop a new technical standard for which the department will be the custodian.  
780 2. Revise an existing technical standard for which the department is the custodian.

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

- 784 1. The department shall convene a work group that includes agencies and persons with technical expertise  
785 and direct policy interest.  
786 2. The work group shall publish a class 1 public notice and consider public comments received on the  
787 technical standard prior to providing recommendations to the department.  
788 3. The work group shall provide a recommended technical standard to the department.

789 (d) Review and approval of technical standards.

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

793 2. If the department determines that a recommended technical standard will not adequately or effectively  
794 implement a performance standard under s. 281.16 (3) (a), Stats., the recommended technical standard may  
795 not be used to implement a performance standard in whole or in part.

796 3. If the department determines that a recommended technical standard will adequately and effectively  
797 implement a performance standard under s. 281.16 (3) (a), Stats., in whole or in part, the new or revised  
798 technical standard shall be used beginning with plans developed after the date of this determination.

799 (e) The department may identify technical standards that exist or are developed by qualified groups or  
800 organizations as adequate and effective to implement the performance standards under s. 281.16 (3) (a),  
801 Stats.

802 **SECTION 111.** ATCP 50.62 (3) (d) is amended to read:

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

807 **SECTION 112.** ATCP 50.62 (3) (d) (Note) is repealed.

808 **SECTION 113.** ATCP 50.62 (5) (e) and (em) 1. are amended to read:

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

810 1. NRCS ~~technical guide~~ conservation practice standard 313 waste storage facility ~~standard 313~~ (January,  
811 ~~2014~~ October, 2017).

812 2. NRCS ~~technical guide~~ conservation practice standard 634 waste transfer ~~standard 634~~ (November, 2022).

813 3. NRCS ~~technical guide~~ conservation practice standard 351 well decommissioning ~~standard 351~~ (~~October,~~  
814 ~~2014~~ August, 2021).

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

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

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

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

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

824 9. Other standards specified by the department.

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

829 **SECTION 114.** ATCP 50.62 (f) (Note) is repealed.

830 **SECTION 115.** ATCP 50.62 (5) (f) 1. and 2. are created to read:

831 ATCP 50.62 **(5)** (f) 1. The landowner must provide to the county a completed nutrient management  
832 checklist to receive cost–share payment for this practice

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

834 **SECTION 116.** ATCP 50.63 (5) is amended to read:

835 ATCP 50.63 **(5)** Design, construction, and maintenance. A cost-share grant under s. ATCP 50.40 may not  
836 reimburse any costs related to the closure of a manure storage system unless the closure plan complies with  
837 NRCS conservation practice standard 360 waste facility closure ~~standard 360~~ (March, 2013–June, 2021).

838 **SECTION 117.** ATCP 50.64 (1) (e) is amended to read:

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

841 **SECTION 118.** ATCP 50.64 (1) (v) (Note) is repealed.

842 **SECTION 119.** ATCP 50.64 (5) (a) is amended to read:



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

846 **SECTION 120.** ATCP 50.64 (5) (c) (Note) is repealed.

847 **SECTION 121.** ATCP 50.64 (5) (d) is created to read:

848 ATCP 50.64 (5) (d) The system complies with one or more of the practices listed in Sub. (1) as appropriate.  
849 Standards for the listed practices are contained in other sections of this subchapter.

850 **SECTION 122.** ATCP 50.65 (3) (a) 1. and 2. and (Note) are amended to read:

851 ATCP 50.65 (3) (a) 1. NRCS ~~technical guide~~ conservation practice standard 560 access road standard 560  
852 (~~October, 2014~~ August, 2021).

853 2. NRCS ~~technical guide~~ conservation practice standard 580 streambank and shoreline protection standard  
854 580 (~~August, 2013~~ September, 2021).

855 ~~Note: When an access road crosses a stream, see s. ATCP 50.885.~~

856 **SECTION 123.** ATCP 50.65 (3) (a) 3. is created to read:

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

858 **SECTION 124.** ATCP 50.66 (3) (a) 1., 2., and 3. and (Note) are amended to read:

859 ATCP 50.66 (3) (a) 1. NRCS ~~technical guide~~ conservation practice standard 575 trails and walkways  
860 standard 575 (~~April, 2016~~ August, 2021).

861 2. NRCS ~~technical guide~~ conservation practice standard 580 streambank and shoreline protection standard  
862 580 (~~August, 2013~~ September, 2021).

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

864 ~~Note: When an access road crosses a stream, see s. ATCP 50.885.~~

865 **SECTION 125.** ATCP 50.66 (3) (a) 4. is created to read:

866 ATCP 50.66 (3) (a) 4. Section ATCP 50.885 when a trails and walkways crosses a stream.

867 **SECTION 126.** ATCP 50.663 is created to read:

868 **ATCP 50.663 Conservation cover.**

869 **(1) DEFINITION.** In this section, “conservation cover” refers to the establishment and maintenance of  
870 permanent vegetative cover in an agricultural setting to reduce erosion and sedimentation, improve water  
871 quality, and improve soil health.

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

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

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

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

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

879 (a) Critical area seedings.

880 (b) Whole-field conversion.

881 (c) Pasture plantings.

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

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

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

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

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

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

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

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

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

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

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

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

897 **SECTION 127.** ATCP 50.668 is created to read:

898 **ATCP 50.668 Conservation crop rotation.**

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

902 (a) Reduce sheet, rill, and wind erosion

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

904 (c) Protect water quality from excess nutrients

905 (d) Improve efficiency of irrigation water use

906 (e) Reduce plant pest pressures

907 (f) Provide or increase forage supply during periods of low forage production or to extend the grazing  
908 season

909 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse for years in a rotation that  
910 have been diversified.

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

912 1. Cover crops

913 2. Small grains.

914 3. Perennial crops.

915 4. Livestock integration.

916 5. Other innovative rotations approved by the department.

917 6. Interseeding/Planting Green (require guidance based on the practices involved).

918 (b) If this practice provides a higher level of treatment than previously addressed and documented in a

919 conservation plan it may be implemented again on the same land unit.

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

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

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

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

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

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

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

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

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

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

933 (c) Landowner agrees to maintain Conservation Crop Rotation for a minimum of 3 years or the duration  
934 of cost share, whichever is longer.

935 **SECTION 128.** ATCP 50.67 (3) (a), (b), and (c) are amended to read:

936 ATCP 50.67 **(3)** (a) NRCS ~~technical guide~~ conservation practice 330 contour farming ~~standard 330~~ (March,  
937 2016).

938 (b) NRCS ~~technical guide~~ conservation practice 500 obstruction removal ~~standard 500~~ (July, 2016 June,  
939 2021).

940 (c) NRCS ~~technical guide~~ conservation practice 420 upland wildlife habitat ~~management standard 645~~  
941 planting (January, 2013 June, 2020), if habitat management is used to mitigate the loss of habitat resulting  
942 from the installation of contour farming.

943 **SECTION 129.** ATCP 50.67 (3) (d) and (e) are created to read:

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

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

946 sharing is provided.

947 **SECTION 130.** ATCP 50.68 (1) is amended to read:

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

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

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

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

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

953 **SECTION 131.** ATCP 50.68 (1) (d) is created to read:

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

955 **SECTION 132.** ATCP 50.68 (2) is amended to read:

956 ATCP 50.68 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse costs to establish

957 ~~cropland cover on a field that contributes to water quality degradation when crop harvesting during the~~

958 ~~growing season leaves the field without enough residue to provide adequate surface runoff protection~~ cover

959 crops on an agricultural field.

960 **SECTION 133.** ATCP 50.68 (3) is repealed.

961 **SECTION 134.** ATCP 50.68 (4) is amended to read:

962 ATCP 50.68 (4) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40

963 may not reimburse any costs to establish ~~cropland~~ a cover crop unless all of the following apply:

964 (a) ~~The cropland cover meets~~ Meets NRCS technical guide conservation practice standard 340 ~~cover crop~~

965 ~~standard 340~~ (August, 2015).

966 (b) The landowner agrees to maintain the cover and green manure crop in each cropping season for which

967 cost-sharing is provided.

968 **SECTION 135.** ATCP 50.69 (4) (a) 1., 2., 3., 4., 5., 6., and 7. are amended to read:

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

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

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

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

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

976 6. NRCS ~~technical guide~~ conservation practice standard 612 tree/shrub establishment ~~standard 612~~ (July,  
977 ~~2014~~ January, 2018).

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

980 **SECTION 136.** ATCP 50.70 (1) and (4) (b) 1., 2., 3., 4., 5., 6., 7., 8., and 9. are amended to read:

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

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

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

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

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

993 5. NRCS ~~technical guide~~ conservation practice standard 468 lined waterway or outlet ~~standard 468~~ (March,

994 ~~2013~~ June, 2021).

995 6. NRCS ~~technical guide~~ conservation practice standard 500 obstruction removal ~~standard 500~~ (July, 2016

996 June, 2021).

997 7. NRCS ~~technical guide~~ conservation practice standard 606 subsurface drain ~~standard 606~~ (March, 2014

998 June, 2021).

999 8. NRCS ~~technical guide~~ conservation practice standard 620 underground outlet ~~standard 620~~ (March, 2014

1000 June, 2021).

1001 9. NRCS ~~technical guide~~ conservation practice standard 645 upland wildlife habitat management ~~standard~~

1002 ~~645~~ (January, 2013).

1003 **SECTION 137.** ATCP 50.705 (3) (d) and (5) (a) 1., 2., 3., 4., 5., 6., and 7., and (5) (a) 8. (Note) are

1004 amended to read:

1005 ATCP 50.705 **(3)** (d) A non-permanent storage area allowed under NRCS ~~technical guide waste treatment~~

1006 ~~standard 629~~ conservation practice standard 561 heavy use area protection (January, 2014 November,

1007 2022).

1008 ATCP 50.705 **(5)** (a) 1. NRCS ~~technical guide~~ conservation practice standard 313 waste storage facility

1009 ~~standard 313~~ (January, 2014 October, 2017).

1010 2. NRCS ~~technical guide waste treatment standard 629~~ conservation practice standard 561 heavy use area

1011 protection (January, 2014 November, 2022).

1012 3. NRCS ~~technical guide~~ conservation practice standard 634 waste transfer ~~standard 634~~ (January, 2014

1013 November, 2022).

1014 4. NRCS ~~technical guide~~ conservation practice standard 635 vegetated treatment area ~~standard 635~~

1015 (~~October, 2014~~ September, 2016).

1016 5. NRCS ~~technical guide~~ conservation practice standard constructed wetland ~~656 restoration standard 656~~

1017 (~~September, 2016~~ December, 2016).

1018 6. NRCS ~~technical guide~~ conservation practice standard 590 nutrient management ~~standard 590~~ (December,

1019 2015).

1020 7. NRCS ~~technical guide~~ conservation practice standard 362 diversion standard 362 (August, 2016).

1021 8. Other standards specified by the department.

1022 **Note:** Additional regulatory requirements in s. NR 213 may apply for runoff control systems that store only  
1023 feed storage area runoff. including s. NR 213.13 may have additional requirements for sweet corn silage  
1024 stacks of greater than 150 tons, and see s. ATCP 51.20 (3) for requirements for livestock facilities required  
1025 to obtain a siting permit.

1026 **SECTION 138.** ATCP 50.705 (5) (b) (Note) is repealed.

1027 **SECTION 139.** ATCP 50.71 (3) (b) 1., 2., 3., and 4. are amended to read:

1028 ATCP 50.71 (3) (b) 1. NRCS ~~technical guide~~ conservation practice standard 382 fence standard  
1029 382 (January, 2014).

1030 2. NRCS ~~technical guide~~ conservation practice standard 380 windbreak-shelterbelt establishment and  
1031 renovation ~~standard 380~~ (January, 2023).

1032 3. NRCS ~~technical guide~~ conservation practice standard 472 access control ~~standard 472~~ (April, 2016  
1033 January, 2018).

1034 4. NRCS ~~technical guide~~ conservation practice standard 650 windbreak/shelterbelt renovation ~~standard~~  
1035 650 (January, 2013).

1036 **SECTION 140.** ATCP 50.72 (3) (a) 1., 2., 3., 4., 5., 6., and 7. are amended to read:

1037 ATCP 50.72 (3) (a) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting  
1038 standard 342 (~~August, 2016~~ January, 2018).

1039 2. NRCS ~~technical guide~~ conservation practice standard 382 fence standard 382 (January, 2014).

1040 3. NRCS ~~technical guide~~ conservation practice standard 386 field border standard 386 (January, 2017).

1041 4. NRCS ~~technical guide~~ conservation practice standard 393 filter strip standard 393 (January, 2017).

1042 5. NRCS ~~technical guide~~ conservation practice standard 472 access control standard 472 (~~April, 2016~~  
1043 January, 2018).



- 1044 6. NRCS ~~technical guide~~conservation practice standard 484 mulching standard 484 (June, 2016).
- 1045 7. NRCS ~~technical guide~~conservation practice standard 391 riparian forest buffer standard 391 (January,
- 1046 2013).
- 1047 **SECTION 141.** ATCP 50.73 (3) (d) 1., 2., 3., 4., 5., 6., 7., 8., 9., 10., 11., and 12. are amended to read:
- 1048 ATCP 50.73 (3) (d) 1. NRCS ~~technical guide~~conservation practice standard 342 critical area planting
- 1049 ~~standard 342~~(~~August, 2016~~ January, 2018).
- 1050 2. NRCS ~~technical guide~~conservation practice standard 350 sediment basin ~~standards 350~~(August, 2016).
- 1051 3. NRCS ~~technical guide~~conservation practice standard 362 diversion ~~standard 362~~(August, 2016).
- 1052 4. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).
- 1053 5. NRCS ~~technical guide~~conservation practice standard 500 obstruction removal ~~standard 500~~(July, 2016
- 1054 June, 2021).
- 1055 6. NRCS ~~technical guide~~conservation practice standard 410 grade stabilization structure ~~standard~~
- 1056 ~~410~~(~~August, 2016~~August, 2021).
- 1057 7. NRCS ~~technical guide~~conservation practice standard 412 grassed waterway ~~standard 412~~(July,
- 1058 ~~2016~~August, 2021).
- 1059 8. NRCS ~~technical guide~~conservation practice standard 468 lined waterway or outlet ~~standard 468~~(~~March,~~
- 1060 ~~2013~~ June, 2021).
- 1061 9. NRCS ~~technical guide~~conservation practice standard 484 mulching ~~standard 484~~(June, 2016).
- 1062 10. NRCS ~~technical guide~~conservation practice standard 606 subsurface drain ~~standard 606~~(~~March, 2014~~
- 1063 June, 2021).
- 1064 11. NRCS ~~technical guide~~conservation practice standard 620 underground outlet ~~standard 620~~(~~March, 2014~~
- 1065 June, 2021).
- 1066 12. NRCS ~~technical guide~~conservation practice standard 638 water and sediment control basin ~~standard~~
- 1067 ~~638~~(~~August, 2016~~ January, 2018).
- 1068 **SECTION 142.** ATCP 50.733 is created to read:

1069 **ATCP 50.733 Habitat diversification.**

1070 **(1) DEFINITION.** In this section, “habitat diversification” refers to the establishment and maintenance of  
1071 native vegetative cover in an agricultural setting to provide habitat for wildlife and pollinator species.

1072 **Note:** Habitat diversification practices convert small areas of agricultural fields to native stands of  
1073 vegetation that augment normal agricultural operations; for example, establishing prairies strips within an  
1074 agricultural field, or converting a small unproductive portion of an agricultural field to native pollinator  
1075 habitat. While wildlife and pollinator habitat is the primary resource concern, the intention of these practices  
1076 is to also provide water quality, soil health, and air quality benefits.

1077 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs:

1078 (a) The cost of fencing to protect the planted native vegetation.

1079 (b) The cost to establish and manage vegetative cover, or to provide temporary cover until the planting is  
1080 established. This may include costs for mulch, seed, and other necessary materials.

1081 (c) The cost to shape, smooth, or prepare the site before establishing native vegetative cover.

1082 **(3) INELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may not reimburse any of the following for  
1083 habitat diversification:

1084 (a) Plantings that include introduced species.

1085 (b) Whole-field conversion.

1086 (c) Fertilizing grass plantings.

1087 (d) Pasture plantings.

1088 **(4) DESIGN, CONSTRUCTION, AND MAINTENANCE.** A cost-share grant under s. [ATCP 50.40](#) may not  
1089 reimburse habitat diversification costs unless all of the following conditions are met:

1090 (a) The habitat diversification practices comply with all of the following that apply:

1091 1. NRCS conservation practice standard 420 wildlife habitat planting (June, 2020).

1092 2. NRCS conservation practice standard 386 field borders (January, 2017), which must include the  
1093 additional criteria to provide wildlife food and cover and pollinator or other beneficial organisms and the  
1094 considerations to enhance wildlife and/or pollinator value.

- 1095 3. NRCS conservation practice standard 472 access control (January, 2018).
- 1096 4. NRCS conservation practice standard 393 filter strips (January, 2017), which must include the  
1097 considerations for creating, restoring, or enhancing herbaceous habitat for wildlife and beneficial insects  
1098 and pollinators.
- 1099 5. NRCS conservation practice standard 382 fence (January, 2014).
- 1100 6. NRCS conservation practice standard 315 herbaceous weed treatment (June 2016).
- 1101 7. NRCS Wisconsin agronomy technical note 5 establishing and maintaining native grasses, forbs and  
1102 legumes (April, 2013)
- 1103 8. NRCS Wisconsin guidance document 420 habitat development for pollinators and butterflies (August,  
1104 2022)
- 1105 (b) Following establishment of native vegetative cover, management of habitat complies with all of the  
1106 following that apply:
- 1107 1. NRCS conservation practice standard 338 prescribed burning (March, 2016).
- 1108 2. NRCS conservation practice standard 314 brush management (April, 2017).
- 1109 3. NRCS conservation practice standard 528 prescribed grazing (April, 2017).
- 1110 4. Guidelines specified in "Pastures for Profit: A Guide to Rotational Grazing," published by the University  
1111 of Wisconsin Extension (2014).
- 1112 (c) The landowner agrees to maintain the native vegetation for 10 years.
- 1113 **SECTION 143.** ATCP 50.738 is created to read:
- 1114 **ATCP 50.738 Harvestable buffers.**
- 1115 **(1) DEFINITION.** In this section, "harvestable buffers" refers to the establishment of grass strips that can be  
1116 harvested for livestock forage, and is intended to reduce agricultural runoff from entering an adjacent  
1117 waterbody.
- 1118 **(2) ELIGIBILITY REQUIREMENTS.** To qualify for financial assistance under s ATCP 50.41, all of the  
1119 following eligibility criteria must be met:
- 1120 (a) The site is not eligible for the Conservation Reserve Enhancement Program.

1121 (b) The buffer must be adjacent to an eligible waterbody. Eligible waterbodies include perennial and  
1122 seasonal streams, creeks and ditches; lakes and ponds; wetlands; sink holes. Gullies or areas where water  
1123 runs only after precipitation are ineligible.

1124 (c) Must address a water quality resource concern.

1125 (d) The site has been in agricultural production for 4 out of the previous 6 years.

1126 (e) The planned buffer is at least 30-feet wide and no more than 150-feet wide.

1127 **(3) DESIGN, CONSTRUCTION, AND MAINTENANCE.** Financial assistance under s ATCP 50.41 may not be  
1128 provided for harvestable buffers unless all of the following conditions are met:

1129 (a) The harvestable buffer practices comply with all of the following that apply:

1130 1. NRCS technical guide filter strips standard 393 (January, 2017).

1131 2. NRCS Wisconsin agronomy technical note 6 (March, 2013).

1132 3. NRCS Wisconsin agronomy technical note 10 (March, 2017).

1133 4. NRCS technical guide herbaceous weed treatment (June 2016).

1134 (b) The landowner agrees to maintain the vegetative cover for a period defined in the agreement with the  
1135 county; the minimum maintenance period shall be 10 years.

1136 **SECTION 144.** ATCP 50.74 is created to read:

1137 **ATCP 50.74 Hydrologic restoration.**

1138 **(1) DEFINITION.** In this section “Hydrologic restoration” means applying combinations of practices  
1139 designed to the extent possible to return wetland, stream, and floodplain hydrology to a natural and self-  
1140 regulating condition in order to achieve such agricultural goals as to slow the flow of runoff, reduce flood  
1141 peaks, restore surface and groundwater interactions, improve water quality, or to increase soil retention,  
1142 groundwater infiltration, base flow, upper watershed storage, and flood resilience. These practices can  
1143 also be used to reduce or repair erosion and maintain water supply. These benefits are achieved by  
1144 improving hydrologic conditions, connections, and functions. Hydrologic restoration practices may  
1145 improve and protect fish and wildlife habitat as an incidental benefit. Hydrologic restoration may include

1146 any of the following components:

1147 (a) Diversions under s. ATCP 50.70.

1148 (b) Grade stabilization structures under s. ATCP 50.73.

1149 (c) Streambank or shoreline protection under s. ATCP 50.88.

1150 (d) Stream restoration under s. ATCP 50.882.

1151 (e) Stream crossing under s. ATCP 50.885.

1152 (f) Subsurface drains under s, ATCP 50.90.

1153 (g) Underground outlets under s. ATCP 50.92.

1154 (h) Water and sediment control basins under s. ATCP 50.95.

1155 (i) Waterway systems under s. ATCP 50.96.

1156 (j) Wetland development or restoration under s. ATCP 50.98.

1157 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs  
1158 related to hydrologic restoration:

1159 (a) Costs for system components under sub. (1) and (4) that are eligible for reimbursement under this  
1160 subchapter.

1161 (b) Costs to establish permanent vegetative cover, or to provide temporary cover pending the  
1162 establishment of permanent cover. This may include costs for mulch, fertilizer, seed, and other necessary  
1163 materials.

1164 (c) Costs to purchase and install permanent fencing around the project area.

1165 (d) Preparatory shaping and smoothing operations.

1166 (e) Costs for site preparation, grading, shaping and filling.

1167 **(3) INELIGIBLE COSTS.** Except for violations of this chapter or ch. 151, a cost-share grant under s.  
1168 ATCP 50.40 may not reimburse costs related to mitigation or correction of a violation of state or local  
1169 law.

1170 **(4) DESIGN, CONSTRUCTION, AND MAINTENANCE STANDARDS.** A cost-share grant under s. ATCP

1171 50.40 may not reimburse hydrologic restoration costs unless all of the following conditions are met:

1172 (a) The hydrologic restoration complies with all of the following that apply:

1173 1. NRCS conservation practice standard 315 herbaceous weed treatment (June, 2016).

1174 2. NRCS conservation practice standard 327 conservation cover (January, 2013).

1175 3. NRCS conservation practice standard 332 contour buffer strips (July, 2016).

1176 4. NRCS conservation practice standard 338 prescribed burning (March, 2016).

1177 5. NRCS conservation practice standard 342 critical area planting (January, 2018).

1178 6. NRCS conservation practice standard 356 dike (September, 2016).

1179 7. NRCS conservation practice standard 382 fence (January, 2014).

1180 8. NRCS conservation practice standard 386 field border (January, 2017).

1181 9. NRCS conservation practice standard 391 riparian forest buffer (January, 2013).

1182 10. NRCS conservation practice standard 396 aquatic organism passage (July 2016).

1183 11. NRCS conservation practice standard 472 access control (January, 2018).

1184 12. NRCS conservation practice standard 484 mulching (June, 2016).

1185 13. NRCS conservation practice standard 554 drainage water management (August, 2021).

1186 14. NRCS conservation practice standard 587 structure for water control (January, 2018).

1187 15. NRCS conservation practice standard 604 saturated buffer (June, 2021).

1188 16. NRCS conservation practice standard 654 road/trail/landing closure and treatment (January, 2018).

1189 17. NRCS conservation practice standard 666 forest stand improvement 666 (October, 2017).

1190 (b) The landowner agrees to maintain the hydrologic restoration treatments for 10 years.

1191 **SECTION 145.** ATCP 50.75 (4) (a) 1. and 2. are amended to read:

1192 ATCP 50.75 (4) (a) 1. NRCS ~~technical guide~~conservation practice standard 382 fence standard  
1193 ~~382~~(January, 2014).

1194 2. NRCS ~~technical guide~~conservation practice standard 472 access control standard 472(April, 2016)

1195 January, 2018).

1196 **SECTION 146.** ATCP 50.76 (5) (a) 1., 2., 3., 4., 6., and 7 are amended to read:

1197 ATCP 50.76 (5) (a) 1. NRCS ~~technical guide~~conservation practice standard 574 spring development  
1198 ~~standard 574~~(March, 2014 August, 2021).

1199 2. NRCS ~~technical guide~~conservation practice standard 614 watering facility ~~standard 614~~(October, 2014  
1200 June, 2021).

1201 3. NRCS ~~technical guide~~conservation practice standard 642 water well ~~standard 642~~(October, 2014 August,  
1202 2021).

1203 4. NRCS~~technical guide~~ conservation practice standard 516 livestock pipeline ~~standard 516~~(December,  
1204 2016 June, 2021).

1205 6. NRCS~~technical guide~~ conservation practice standard 561 heavy use area protection ~~standard~~  
1206 561(August, 2015 November, 2022).

1207 7. NRCS~~technical guide~~ conservation practice standard 533 pumping plant ~~standard 533~~(July, 2016 August,  
1208 2021).

1209 **SECTION 147.** ATCP 50.77 (4) (a) 1., 2., 3., 4., 5., 6., and 7. are amended to read:

1210 ATCP 50.77 (4) (a) 1. 1. *Milking Center Wastewater Guidelines*, a companion document to Wisconsin  
1211 NRCS conservation practice standard 629 (June, 2009).

1212 **Note:** Copies of *Milking Center Wastewater Guidelines*, a companion document to Wisconsin NRCS  
1213 conservation practice standard 629 (June, 2009) are on file with the department and the legislative reference  
1214 bureau and can be obtained by visiting the department website at:

1215 [https://datcp.wi.gov/Pages/Programs\\_Services/ATCP50.aspx](https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx)..

1216 2. NRCS ~~technical guide~~conservation practice standard 627 wastewater treatment, milk house standard  
1217 629(January, 2014 November, 2022).

1218 3. NRCS ~~technical guide~~conservation practice standard 313 waste storage facility ~~standard 313~~(January,  
1219 2014 October, 2017).

1220 4. NRCS ~~technical guide~~ conservation practice standard 634 waste transfer ~~standard 634~~ (January, 2014  
1221 November, 2022).

1222 5. NRCS ~~technical guide~~ conservation practice standard 590 nutrient management ~~standard 590~~ (December,  
1223 2015).

1224 6. NRCS ~~technical guide~~ conservation practice standard 635 vegetated treatment area ~~standard 635~~ (October,  
1225 ~~2014~~ September, 2016).

1226 7. NRCS ~~technical guide~~ conservation practice standard 656 constructed wetland ~~standard 656~~ (December,  
1227 2016).

1228 **SECTION 148.** ATCP 50.78 (3) (a) is amended to read:

1229 ATCP 50.78 (3) (a) The nutrient management practice complies with NRCS ~~technical guide~~ conservation  
1230 practice standard 590 nutrient management ~~standard 590~~ (December, 2015).

1231 **Note:** The NRCS ~~technical guide~~ conservation practice standard 590 nutrient management ~~standard 590~~  
1232 can be obtained by visiting the department website at:

1233 [https://datcp.wi.gov/Pages/Programs\\_Services/ATCP50.aspx](https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx).

1234 **SECTION 149.** ATCP 50.785 is created to read:

1235 **ATCP 50.785 Nutrient treatment system. (1) DEFINITION.** In this section “Nutrient treatment system”  
1236 means a system installed to intercept subsurface (tile) flow, groundwater, or surface runoff flow to reduce  
1237 the concentration of phosphorous or nitrate nitrogen and minimize the movement of these nutrients to  
1238 surface water and/or groundwater.

1239 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs  
1240 related to nutrient treatment systems:

1241 (a) Costs to design or install the system.

1242 (b) Costs to purchase and install necessary underground pipe, subsurface drain tile, outlets and other  
1243 necessary structures for water control or mechanical outlets.

1244 (c) Costs to remove obstructions, if necessary for the installation of an effective nutrient management



1245 system.

1246 (d) Costs to establish permanent vegetative cover, or to provide temporary cover until permanent cover is  
1247 established. This may include costs for mulch, fertilizer, and other necessary materials.

1248 (e) Cost to install permanent fencing to protect the nutrient treatment system.

1249 (f) Other nutrient treatment systems, approved by the department, that are needed to meet identified water  
1250 quality objectives.

1251 **(3) INELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may not reimburse any of the following  
1252 costs related to nutrient treatment systems:

1253 (a) Costs to design a nutrient treatment system that is not installed.

1254 (b) Costs of a proposed practice, to the extent that those costs exceed the cost of an equally effective  
1255 alternative.

1256 (c) Costs for any system, component, or practice that is not required to correct an identified water pollution  
1257 hazard.

1258 (d) Costs to install a nutrient treatment system in urban settings or that does not address agricultural runoff  
1259 or drainage.

1260 **(4) DESIGN, CONSTRUCTION, AND MAINTENANCE STANDARDS.** A cost-share grant under s. ATCP 50.40  
1261 may not reimburse nutrient treatment systems cost unless all of the following conditions are met:

1262 (a) The nutrient treatment systems comply with all of the following that apply:

1263 1. NRCS conservation practice standard 605 denitrifying bioreactor (June, 2021).

1264 2. NRCS conservation practice standard 782 phosphorous removal system (May, 2019).

1265 3. NRCS conservation practice standard 606 subsurface drain (June, 2021)

1266 4. NRCS conservation practice standard 342 critical area planting standard (January, 2018).

1267 5. NRCS conservation practice standard 484 mulching (June, 2016).

1268 6. NRCS conservation practice standard 554 drainage water management (August, 2021).

1269 7. NRCS conservation practice standard 587 structure for water control (January, 2018).

1270 8. NRCS conservation practice standard 604 saturated buffer (June, 2021).

1271 (b) The landowner agrees to maintain the nutrient treatment system for 10 years unless farming operations  
1272 on the affected land are discontinued.

1273 **SECTION 150.** ATCP 50.79 (3) (a) 1. is amended to read:

1274 ATCP 50.79 (3) (a) 1. NRCS ~~technical guide~~ conservation practice standard 595 integrated pest  
1275 management conservation system standard 595 (January, 2013-2022).

1276 **SECTION 151.** ATCP 50.79 (3) (a) 1m. is created:

1277 ATCP 50.79 (3) (a) 1m. NRCS conservation practice standard 309 agrichemical handling facility  
1278 (September, 2021)

1279 **SECTION 152.** ATCP 50.80 (1) (Note) is repealed.

1280 **SECTION 153.** ATCP 50.80 (2) and (2) (c) and (d) are amended to read:

1281 ATCP 50.80 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of  
1282 replacing animal lots or pastures, ~~or~~ establishing a prescribed grazing system on croplands, or improving  
1283 an existing prescribed grazing system that contributes sediments, nutrients, or pesticides to a water resource.

1284 This may include any of the following costs:

1285 (c) The cost to establish, or enhance through interseeding or weed management - good seeding stands for  
1286 pasture and hayland planting.

1287 (d) The cost to establish a livestock watering facility. This may include pipeline and pasture watering  
1288 systems, wells, spring developments, winter watering facilities such as geothermal or heated jug, heavy use  
1289 protection area, and portable watering systems such as pumps, pipes, and tanks.

1290 **SECTION 154.** ATCP 50.80 (2) (g) is created to read:

1291 ATCP 50.80 (2) (g) The costs for development of a prescribed grazing plan.

1292 **SECTION 155.** ATCP 50.80 (3) (a) 1., 2., 3., 4., 5., 6., and 8., are amended to read:

1293 ATCP 50.80 (3) (a) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting

1294 ~~standard 342~~(~~August, 2016~~ January, 2018).

1295 2. NRCS ~~technical guide~~conservation practice standard 512 forage and biomass planting ~~standard~~  
1296 ~~512~~(January, 2013).

1297 3. NRCS ~~technical guide~~conservation practice standard 472 access control ~~standard 472~~(April, 2016  
1298 January, 2018).

1299 4. NRCS ~~technical guide~~conservation practice standard 580 streambank and shoreline protection ~~standard~~  
1300 ~~580~~(~~August, 2013~~ September, 2021).

1301 5. NRCS ~~technical guide~~conservation practice standard 561 heavy use area protection ~~standard 561~~(August,  
1302 ~~2015~~ November, 2022).

1303 6. NRCS ~~technical guide~~conservation practice standard 528 prescribed grazing ~~standard (man- aged~~  
1304 ~~grazing- Wisconsin)~~ 528(~~December, 2008~~ April, 2017).

1305 8. NRCS ~~technical guide~~conservation practice standard 575 trails and walkways ~~standard 575~~(April, 2016  
1306 August, 2021).

1307 **SECTION 156.** ATCP 50.80 (3) (a) 10. and 11. are created:

1308 ATCP 50.80 (3) (a) 10. NRCS conservation practice standard 315 herbaceous weed treatment (June  
1309 2016).

1310 ATCP 50.80 (3) (a) 11. NRCS conservation practice standard 314 brush management (April 2017).

1311 **SECTION 157.** ATCP 50.81 (5) (a) is amended to read:

1312 ATCP 50.81 **(5)** (a) The relocation or abandonment complies with the NRCS ~~technical guide~~conservation  
1313 practice standards for the conservation practices in this subchapter.

1314 **SECTION 158.** ATCP 50.82 (2) (a) 1m. is created to read:

1315 ATCP 50.82 **(2)** (a) 1m. Strip-till practices.

1316 **SECTION 159.** ATCP 50.82 (2) (a) 2., 3., and 4., (b), and (3) are repealed.

1317 **SECTION 160.** ATCP 50.82 (4) (c) is amended to read:

1318 ATCP 50.82 **(4)** (c) The residue management complies with ~~all of the following applicable standards:~~

1319 ~~1. NRCS technical guide conservation practice standard 329~~ residue and tillage management—no till/strip  
1320 ~~till/direct seed standard 329~~ (January, 2017 2018).

1321 **SECTION 161.** ATCP 50.82 (4) (c) 2., 3., and 4. are repealed.

1322 **SECTION 162.** ATCP 50.83 (3) (a) 1., 2., 3., 4., 5., 6., and 7. are amended to read:

1323 ATCP 50.83 (3) (a) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting  
1324 ~~standard 342~~ (~~August, 2016~~ January 2018).

1325 2. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

1326 3. NRCS ~~technical guide~~conservation practice standard 386 field border ~~standard 386~~(January, 2017).

1327 4. NRCS ~~technical guide~~conservation practice standard 393 filter strip ~~standard 393~~(January, 2017).

1328 5. NRCS ~~technical guide~~conservation practice standard 472 access control ~~standard 472~~(~~April, 2016~~  
1329 January, 2018).

1330 6. NRCS ~~technical guide~~conservation practice standard 484 mulching ~~standard 484~~(June, 2016).

1331 7. NRCS ~~technical guide~~conservation practice standard 391 riparian forest buffer ~~standard 391~~(January,  
1332 2013).

1333 **SECTION 163.** ATCP 50.83 (3) (a) 8. is repealed.

1334 **SECTION 164.** ATCP 50.83 (3) (a) 9. is amended to read:

1335 ATCP 50.83 (3) (a) 9. NRCS ~~technical guide~~conservation practice standard 420 ~~upland~~wildlife habitat  
1336 ~~management planting standard 645~~(~~January 2013~~ June, 2020).

1337 **SECTION 165.** ATCP 50.84 (1) (a) is created to read:

1338 ATCP 50.84 (1) (a) “Animal housing” means a building or structure used exclusively for the housing,  
1339 raising, or sheltering of animals.

1340 **SECTION 166.** ATCP 50.84 (1) (a) is amended to read and renumbered to (am):

1341 ATCP 50.84 (1) (am) “Roof” means a weather-proof covering that shields an animal lot or manure storage  
1342 structure from precipitation, and includes the structure supporting that weather-proof covering. ~~“Roof” does~~  
1343 ~~not include, except in the case of a manure storage structure, a covering over an enclosed structure if the~~

1344 ~~sum of the length of the walls of the structure exceeds 50% of the perimeter of the covering. If a structure~~  
1345 ~~includes 2 or more square or rectangular areas, the ratio of wall length to covering perimeter shall be~~  
1346 ~~separately calculated for each square or rectangular area, excluding common sides.~~

1347 **SECTION 167.** ATCP 50.84 (1) (b) and (4) (a) and (b) are repealed.

1348 **SECTION 168.** ATCP 50.84 (4) and (5) (a) and (e) are amended to read:

1349 ATCP 50.84 **(4)** INELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may not reimburse ~~any of the~~  
1350 ~~following:~~

1351 ~~(a) Costs to install walls or to enclose a roofed area.~~

1352 ~~(b) Costs to design or construct a building or structure other than a roof.~~

1353 ~~(c) Costs the costs to install a roof over feed storage, machinery storage, or animal housing areas, except as~~  
1354 ~~provided in sub. (3).~~

1355 **(5)** (a) The roof complies with NRCS ~~technical guide~~ conservation practice standard 367 roofs and covers  
1356 ~~standard 367~~ (April, 2016).

1357 (e) The landowner agrees not to convert a roofed animal lot structure, cost-shared under this chapter, for  
1358 use other than as an animal lot for the duration of the maintenance agreement.

1359 **SECTION 169.** ATCP 50.85 (4) (a) 1. and 2. are amended to read:

1360 ATCP 50.85 **(4)** (a) 1. NRCS ~~technical guide~~ conservation practice standard 558 roof runoff structure  
1361 ~~standard 558~~ (September, 2010 2021).

1362 2. NRCS ~~technical guide~~ conservation practice standard 620 underground outlet ~~standard 620~~ (March, 2014  
1363 June, 2021).

1364 **SECTION 170.** ATCP 50.86 (4) (b) 1., 2., 3., 4., 5., 6., and 7. are amended to read:

1365 ATCP 50.86 **(4)** (b) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting  
1366 ~~standard 342~~ (August, 2016 January, 2018).

1367 2. NRCS ~~technical guide~~ conservation practice standard 350 sediment basin ~~standard 350~~ (August, 2016).

1368 3. NRCS ~~technical guide~~ conservation practice standard 634 waste transfer ~~standard 634~~ (January, 2014

1369 November, 2022).

1370 4. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

1371 5. NRCS ~~technical guide~~conservation practice standard 635 vegetated treatment area ~~standard 635~~(October,  
1372 ~~2014~~ September, 2016).

1373 6. NRCS ~~technical guide~~conservation practice standard 561 heavy use area protection ~~standard 561~~(August,  
1374 ~~2015~~ November, 2022).

1375 7. NRCS ~~technical guide~~conservation practice standard 620 underground outlet ~~standard 620~~(March, 2014  
1376 June, 2021).

1377 **SECTION 171.** ATCP 50.86 (4) (b) 9. is created to read:

1378 ATCP 50.86 **(4)** (b) 9. NRCS conservation practice standard 632 waste separation facility (November,  
1379 2022).

1380 **SECTION 172.** ATCP 50.87 (4) (a) 1., 2., and 3. are amended to read:

1381 ATCP 50.87 **(4)** (a) 1. NRCS ~~technical guide~~conservation practice standard 527 sinkhole treatment ~~standard~~  
1382 ~~527~~(September, 2021).

1383 2. NRCS ~~technical guide~~conservation practice standard 362 diversion ~~standard 362~~(August, 2016).

1384 3. NRCS ~~technical guide~~conservation practice standard 412 grassed waterway ~~standard 412~~(July, 2016  
1385 August, 2021).

1386 **SECTION 173.** ATCP 50.88 (1) (cg), (cr), and (em) are created to read:

1387 ATCP 50.88 **(1)** (cg) Livestock fencing under s. ATCP 50.75.

1388 (cr) Livestock watering facilities under s. ATCP 50.76.

1389 (em) Stream crossing under s. ATCP 50.885.

1390 **SECTION 174.** ATCP 50.88 (2) (a) is amended to read:

1391 ATCP 50.88 **(2)** (a) Costs to install new soil bioengineering and structural treatments including rock riprap.

1392 Wood chunks, unsorted demolition material, brick, plaster, blacktop, and other materials that may produce

1393 leachates may not be used as riprap. A cost-share grant may reimburse costs for rock and timber riprap or

1394 lunkers used to establish fish habitat, in combination with the restoration of a riparian buffer and as part of  
1395 a streambank or shoreline protection scheme, provided that reimbursement for fish habitat does not exceed  
1396 25% of the cost-share grant.

1397 ~~Note: Lunker structures, or rock and timber riprap, are sometimes used to create fish habitat.~~

1398 **SECTION 175.** ATCP 50.88 (2) (c) (Note) is repealed.

1399 **SECTION 176.** ATCP 50.88 (3) (a) 1., 2., 3., 4., and 5. are amended to read:

1400 ATCP 50.88 (3) (a) 1. NRCS ~~technical guide~~conservation practice standard 342 critical area planting  
1401 ~~standard 342~~(~~August, 2016~~ January, 2018).

1402 2. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

1403 3. NRCS ~~technical guide~~conservation practice standard 580 streambank and shoreline protection ~~standard~~  
1404 ~~580~~(~~August, 2013~~ September, 2021).

1405 4. NRCS ~~technical guide~~conservation practice standard 612 tree/shrub establishment ~~standard 612~~(July,  
1406 ~~2014~~ January, 2018).

1407 5. NRCS ~~technical guide~~conservation practice standard 561 heavy use area protection ~~standard 561~~(~~August,~~  
1408 ~~2015~~ November, 2022).

1409 **SECTION 177.** ATCP 50.88 (3) (a) 6., 7., 8., and 9. are created to read:

1410 ATCP 50.88 (3) (a) 6. NRCS conservation practice standard 326 clearing and snagging (June, 2016)

1411 7. NRCS conservation practice standard 395 stream habitat improvement and management (September,  
1412 2021)

1413 8. NRCS conservation practice standard 582 open channel (September, 2021)

1414 9. NRCS conservation practice standard 584 channel bed stabilization (September, 2021)

1415 **SECTION 178.** ATCP 50.882 is created to read:

1416 **ATCP 50.882 Stream restoration.**

1417 **(1) DEFINITION.** In this section “Stream restoration” means applying combinations of practices designed  
1418 to the extent possible to restore or repair healthy channel conditions, connections, and functions adjacent

1419 to or upstream from erosion-prone agricultural lands or to address other resource concerns. These practices  
1420 shall be installed to slow the flow of runoff, reduce flood peaks, restore surface and groundwater  
1421 interactions, improve water quality, or to increase soil retention, groundwater infiltration, base flow, upper  
1422 watershed storage, and flood resilience. These practices can also be used to reduce or repair erosion,  
1423 maintain water supply, maintain sediment transport continuity, restore natural drainage, and stabilize  
1424 banks. Stream restoration practices may improve fish and wildlife habitat as an incidental benefit. Stream  
1425 restoration may include any of the following components:

1426 (a) Hydrologic restoration under s. ATCP 50.74.

1427 (b) Streambank or shoreline protection under s. ATCP 50.88.

1428 (c) Stream crossing under s. ATCP 50.885.

1429 (d) Waterway systems under s. ATCP 50.96.

1430 (e) Wetland development or restoration under s. ATCP 50.98.

1431 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs  
1432 related to stream restoration:

1433 (a) Costs for system components under sub. (1) and (4) that are eligible for reimbursement under this  
1434 subchapter.

1435 (b) Costs to establish permanent vegetative cover, or to provide temporary cover pending the  
1436 establishment of permanent cover. This may include costs for mulch, fertilizer, seed, and other necessary  
1437 materials.

1438 (c) Costs to purchase and install permanent fencing around the critical area.

1439 (d) Preparatory shaping and smoothing operations.

1440 (e) Costs for site preparation, grading, shaping and filling.

1441 **(3) INELIGIBLE COSTS.** Except for violations of this chapter or ch. 151, a cost-share grant under s. ATCP  
1442 50.40 may not reimburse costs related to mitigation or correction of a violation of state or local law.

1443 **(4) DESIGN, CONSTRUCTION, AND MAINTENANCE STANDARDS.** A cost-share grant under s. ATCP 50.40



1444 may not reimburse stream restoration costs unless all of the following conditions are met:

1445 (a) The stream restoration complies with all of the following that apply:

1446 1. NRCS conservation practice standard 315 herbaceous weed treatment (June, 2016).

1447 2. NRCS conservation practice standard 327 conservation cover (January, 2013).

1448 3. NRCS conservation practice standard 342 critical area planting standard (January, 2018).

1449 4. NRCS conservation practice standard 356 dike (September, 2016).

1450 5. NRCS conservation practice standard 382 fence (January, 2014).

1451 6. NRCS conservation practice standard 391 riparian forest buffer (January, 2013).

1452 7. NRCS conservation practice standard 395 stream habitat improvement and management (September,

1453 2021).

1454 8. NRCS conservation practice standard 396 aquatic organism passage (July 2016).

1455 9. NRCS conservation practice standard 472 access control (January, 2018).

1456 10. NRCS conservation practice standard 484 mulching (June, 2016).

1457 11. NRCS conservation practice standard 554 drainage water management (August, 2021).

1458 12. NRCS conservation practice standard 582 open channel (September, 2021).

1459 13. NRCS conservation practice standard 584 channel bed stabilization (September, 2021).

1460 14. NRCS conservation practice standard 587 structure for water control (January, 2018).

1461 15. NRCS conservation practice standard 604 saturated buffer (June, 2021).

1462 16. NRCS conservation practice standard 643 restoration of rare or declining natural communities(May,

1463 2014).

1464 (b) The landowner agrees to maintain the stream restoration treatments for 10 years.

1465 **SECTION 179.** ATCP 50.885 (1) and (4) (a) 1., 2., 3., and 4. is amended to read:

1466 ATCP 50.885 **(1)** DEFINITION. In this section, "stream crossing" means a road or pathway which confines

1467 or directs the movement of livestock, farm equipment, or vehicular traffic over or through (ford crossing)

1468 a stream, and which is designed and installed to improve water quality, reduce erosion, protect an installed  
1469 practice, or control livestock access to a stream.

1470 **(4)** (a) 1. NRCS ~~technical guide~~ conservation practice standard 560 access road ~~standard 560~~ (October,  
1471 2014-January, 2018).

1472 2. NRCS ~~technical guide~~ conservation practice standard 580 streambank and shoreline protection ~~standard~~  
1473 580 (August, 2013-September, 2021).

1474 3. NRCS ~~technical guide~~ conservation practice standard 382 fence ~~standard 382~~ (January, 2014).

1475 4. NRCS ~~technical guide~~ conservation practice standard 578 stream crossing ~~standard 578~~ (March, 2015  
1476 January, 2018).

1477 **SECTION 180.** ATCP 50.89 (3) (b) 1. and 2. and (c) are amended to read:

1478 ATCP 50.89 **(3)** (b) 1. NRCS ~~technical guide~~ conservation practice standard 500 obstruction removal  
1479 ~~standard 500~~ (July, 2016 June, 2021).

1480 2. NRCS ~~technical guide~~ conservation practice standard 585 stripcropping ~~standard 585~~ (June, 2016).

1481 (c) The landowner agrees to maintain the stripcropping ~~for 10 years unless farming operations on the~~  
1482 ~~affected land are discontinued~~ in each cropping season for which cost-sharing is provided.

1483 **SECTION 181.** ATCP 50.90 (2), (3) (a) and (b) 1. and 2. are amended to read:

1484 ATCP 50.90 **(2)** ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of  
1485 designing and constructing a subsurface drain as part of a manure storage system, barnyard runoff control  
1486 system, feed storage runoff control system, or erosion control system, or as part of a nutrient treatment  
1487 system.

1488 **(3)** (a) The subsurface drain is a necessary component of a manure storage system, barnyard runoff control  
1489 system, feed storage runoff control system, or erosion control system, or as part of a nitrate, nitrogen, or  
1490 phosphorous removal system.

1491 (b) 1. NRCS ~~technical guide~~ conservation practice standard 606 subsurface drain ~~standard 606~~ (March, 2014  
1492 June, 2021).

1493 2. NRCS ~~technical guide~~ conservation practice standard 620 underground outlet standard 620 (~~March, 2014~~  
1494 June, 2021).

1495 **SECTION 182.** ATCP 50.91 (3) (b) 1., 2., 3., 4., 5., 6., 7., and 8. are amended to read:

1496 ATCP 50.91 (3) (b) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting  
1497 ~~standard 342~~ (~~August, 2016~~ January, 2018).

1498 2. NRCS ~~technical guide~~ conservation practice standard 412 grassed waterway ~~standard 412~~ (~~July, 2016~~  
1499 August, 2021).

1500 3. NRCS ~~technical guide~~ conservation practice standard 468 lined waterway or outlet ~~standard 468~~ (~~March,~~  
1501 ~~2013~~ June, 2021).

1502 4. NRCS ~~technical guide~~ conservation practice standard 500 obstruction removal ~~standard 500~~ (~~July, 2016~~  
1503 June, 2021).

1504 5. NRCS ~~technical guide~~ conservation practice standard 600 terrace ~~standard 600~~ (~~March, 2015~~ August,  
1505 2021).

1506 6. NRCS ~~technical guide~~ conservation practice standard 606 subsurface drain ~~standard 606~~ (~~March, 2014~~  
1507 June, 2021).

1508 7. NRCS ~~technical guide~~ conservation practice standard 620 underground outlet ~~standard 620~~ (~~March, 2014~~  
1509 June, 2021).

1510 8. NRCS ~~technical guide~~ conservation practice standard 638 water and sediment control basin ~~standard~~  
1511 ~~638~~ (~~August, 2016~~ January, 2018).

1512 **SECTION 183.** ATCP 50.92 (3) (b) 1. and 2. are amended to read:

1513 ATCP 50.92 (3) (b) 1. NRCS ~~technical guide~~ conservation practice standard 606 subsurface drain ~~standard~~  
1514 ~~606~~ (~~March, 2014~~ June, 2021).

1515 2. NRCS ~~technical guide~~ conservation practice standard 620 underground outlet ~~standard 620~~ (~~March, 2014~~  
1516 June, 2021).

1517 **SECTION 184.** ATCP 50.925 is created to read:

1518 **ATCP 50.925 Verification of Depth to Bedrock**

1519 **(1) DEFINITION.** In this section, “verification of depth to bedrock” means investigative methods for infield  
1520 depth to bedrock verification for fields receiving mechanical applications of manure.

1521 **(2) COST-SHARE ELIGIBILITY.** A cost-share grant under s. ATCP 50.40 may reimburse a landowner for the  
1522 costs of verifying depth to bedrock in an area subject to s. NR 151.075.

1523 **(3) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs  
1524 related to verification of depth to bedrock:

1525 (a) Costs to conduct a site assessment.

1526 (b) Costs to prepare the plan for verification of depth to bedrock.

1527 (c) Costs associated with implementation of the plan for verification of depth to bedrock using intrusive  
1528 methods.

1529 (d) Costs associated with implementation of the plan for verification of depth to bedrock using  
1530 geophysical methods.

1531 (e) Costs associated with ground truthing data collected through geophysical methods.

1532 (f) Costs to develop field maps as defined in the technical standard.

1533 (g) Costs to backfill or abandon boreholes and test pits.

1534 **(4) Ineligible costs include costs to become a qualified verifier.**

1535 **(5) PLANS AND SPECIFICATIONS.** A cost-share grant may not reimburse any costs for verification of  
1536 depth to bedrock unless all of the following conditions are met:

1537 (a) The verification of depth to bedrock complies with the department technical standard 01 verification  
1538 of depth to bedrock (July, 2021).

1539 (b) The following that apply are completed and submitted to the department:

1540 1. Field data reporting forms

1541 **Note:** Field data reporting forms in par. 1. should identify the data listed in Attachment 3 of the department  
1542 technical standard 01 verification of depth to bedrock (July, 2021). A template form for the intrusive

1543 verification method can be obtained at:

1544 [https://datcp.wi.gov/Pages/Programs\\_Services/DepthToBedrockStandard](https://datcp.wi.gov/Pages/Programs_Services/DepthToBedrockStandard).

1545 2. Geophysical data map, if applicable, with legend, unit and ground truthing locations

1546 3. Borehole abandonment forms

1547 4. Name and qualifications of individual(s) analyzing the field data

1548 5. A computer file with tabulated data in spreadsheet format that identifies latitude/longitude coordinates

1549 as recorded during the field effort

1550 6. Field maps depicting intrusive method data points and depth to bedrock, including information below:

1551 a. Borings and/or geophysical survey locations by recording latitude/longitude coordinates of verification

1552 borings and geophysical survey locations using the WGS84 coordinate system

1553 b. Field location, field boundary, acres, field identification number, scale, all borings/and or geophysical

1554 survey locations using the above requirements and a North directional arrow.

1555 **SECTION 185.** ATCP 50.93 (1) and (4) (a) are amended to read:

1556 ATCP 50.93 (1) DEFINITION. In this section, "waste transfer system" means components such as pumps,

1557 pipes, conduits, valves, and other structures installed to convey manure, feed storage, and milking center

1558 wastes from buildings and animal feeding operations to a storage structure, loading area, or treatment area.

1559 (4) (a) The waste transfer system complies with ~~all of the following that apply:~~

1560 ~~1. NRCS technical guide conservation practice standard 634 waste transfer ~~standard 634~~(November,~~

1561 2022).

1562 **SECTION 186.** ATCP 50.93 (4) (a) 2. is repealed.

1563 **SECTION 187.** ATCP 50.94 (1) and (3) (a) 1., 2., 3., 4., and 5. are amended to read:

1564 ATCP 50.94 (1) DEFINITION. In this section, "wastewater treatment strip" means an area of herbaceous

1565 vegetation that is used as part of an agricultural waste management system to remove pollutants from animal

1566 lot runoff or wastewater, such as runoff or wastewater from a milking center or feed storage area.

1567 (3) (a) 1. NRCS ~~technical guide conservation practice standard 342~~ critical area planting ~~standard~~

1568 ~~342(August, 2016~~ January, 2018).

1569 2. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

1570 3. NRCS ~~technical guide~~conservation practice standard 472 access control ~~standard 472~~(~~April, 2016~~  
1571 January, 2018).

1572 4. NRCS ~~technical guide~~conservation practice standard 484 mulching ~~standard 484~~(June, 2016).

1573 5. NRCS ~~technical guide~~conservation practice standard 635 vegetated treatment area ~~standard 635~~(~~October,~~  
1574 2014 September, 2016).

1575 **SECTION 188.** ATCP 50.95 (3) (a) 1., 2., 3., and 4. are amended to read:

1576 ATCP 50.95 (3) (a) 1. NRCS ~~technical guide~~conservation practice standard 342 critical area planting  
1577 ~~standard 342~~(~~August, 2016~~ January, 2018).

1578 2. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

1579 3. NRCS ~~technical guide~~conservation practice standard 638 water and sediment control basin ~~standard~~  
1580 ~~638~~(~~August, 2016~~ January, 2018).

1581 4. NRCS ~~technical guide~~conservation practice standard 620 underground outlet ~~standard 620~~(~~March, 2014~~  
1582 June, 2021).

1583 **SECTION 189.** ATCP 50.96 (3) (b) 1., 2., 3., 4., 5., 6., 7., and 8. are amended to read:

1584 ATCP 50.96 (3) (b) 1. NRCS ~~technical guide~~conservation practice standard 342 critical area planting  
1585 ~~standard 342~~(~~August, 2016~~ January, 2018).

1586 2. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

1587 3. NRCS ~~technical guide~~conservation practice standard 412 grassed waterway ~~standard 412~~(~~July,~~  
1588 2016 August, 2021).

1589 4. NRCS ~~technical guide~~conservation practice standard 484 mulching ~~standard 484~~(June, 2016).

1590 5. NRCS ~~technical guide~~conservation practice standard 500 obstruction removal ~~standard 500~~(~~July, 2016~~  
1591 June, 2021).

1592 6. NRCS ~~technical guide~~conservation practice standard 606 subsurface drain ~~standard 606~~(~~March, 2014~~

1593 June, 2021).

1594 7. NRCS ~~technical guide~~conservation practice standard 620 underground outlet ~~standard 620~~(March, 2014  
1595 June, 2021).

1596 8. NRCS ~~technical guide~~conservation practice standard 468 lined waterway or outlet ~~standard 468~~(March,  
1597 ~~2013~~ June, 2021).

1598 **SECTION 190.** ATCP 50.97 (3) (a) is amended to read:

1599 ATCP 50.97 **(3)** (a) NRCS ~~technical guide~~conservation practice standard 351 well decommissioning  
1600 ~~standard 351~~(October, 2014 August 2021).

1601 **SECTION 191.** ATCP 50.98 (1) is amended to read:

1602 ATCP 50.98 **(1)** DEFINITION. In this section, "wetland development or restoration" means ~~the construction~~  
1603 ~~of berms, or the destruction of tile line or drainage ditch functions, to create or restore~~recreating or restoring  
1604 hydrologic or other conditions suitable for wetland vegetation and/or other important wetland functions.  
1605 Construction of berms, destroying of tile lines or drainage ditch functions, or excavating areas (scrapes) are  
1606 among common practices.

1607 **SECTION 192.** ATCP 50.98 (2) (e) is created to read:

1608 ATCP 50.98 **(2)** (e) Costs for earth moving to construct scrapes.

1609 **SECTION 193.** ATCP 50.98 (3) (a) is amended to read:

1610 ATCP 50.98 **(3)** (a) The wetland development or restoration complies with all of the following that apply:

1611 1. NRCS ~~technical guide~~conservation practice standard 657 wetland restoration ~~standard 657~~(September,  
1612 ~~2016~~February, 2020).

1613 **SECTION 194.** ATCP 50.98 (3) (a) 2. is created to read:

1614 ATCP 50.98 **(3)** (a) 2. NRCS conservation practice standard 658 wetland creation (October, 2016).

1615 **SECTION 195.** EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day  
1616 of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22

1617 (2) (intro.), Stats.

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(END OF RULE TEXT)

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Dated this \_\_\_\_ day of \_\_\_\_\_, 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**

### **Fiscal Estimate & Economic Impact Analysis**

- 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
-

## **ADMINISTRATIVE RULES**

### **Fiscal Estimate & Economic Impact Analysis**

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**

### **Fiscal Estimate & Economic Impact Analysis**

#### 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**

### **Fiscal Estimate & Economic Impact Analysis**

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.

Dated this 28th day of April, 2023.

STATE OF WISCONSIN DEPARTMENT OF  
AGRICULTURE, TRADE AND CONSUMER  
PROTECTION

By



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Brian D. Kuhn, Acting Administrator,  
Division of Agricultural Resource Management

**State of Wisconsin**  
**Department of Agriculture, Trade and Consumer Protection**  
**NOTICE OF PUBLIC HEARING AND COMMENT PERIOD**

The Department of Agriculture, Trade and Consumer Protection announces that it will hold two public hearings on a permanent rule to revise ATCP 50 relating to Soil and Water Resource Management Program at the time and places shown below.

**Hearing Information**

Date: **Wednesday, June 7, 2023**

Time: 1:00 p.m.

Location: Calumet County Courthouse  
206 Court St.  
Chilton, WI 53014  
Room 025 – In Basement

Date: **Thursday, June 8, 2023**

Time: 10:00 a.m.

Location: Agriculture Building  
2811 Agriculture Dr.  
Madison, WI 53708-8911  
Room 106

Via Internet Access:

<https://www.zoomgov.com/j/1608002878?pwd=U2VJbHBqUWNlZnRWc3BUaXh2T0dOZz09>

Meeting ID: 160 800 2878

Passcode: 287622

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+16468287666,,1608002878# US (New York)

**Appearances at the Hearing and Submittal of Written Comments**

Comments may be submitted to Coreen Fallat, Liaison, Bureau of Land and Water Resources, Department of Agriculture, Trade and Consumer Protection, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708-8911 or by email to [DATCPLANDWATER@wisconsin.gov](mailto:DATCPLANDWATER@wisconsin.gov). Comments must be received by June 16, 2023 to be included in the record of rule-making proceedings.

The rule may be reviewed at [https://datcp.wi.gov/Pages/About\\_Us/AdministrativeRules.aspx](https://datcp.wi.gov/Pages/About_Us/AdministrativeRules.aspx). You may also obtain a copy by contacting Coreen Fallat at [DATCPLANDWATER@wisconsin.gov](mailto:DATCPLANDWATER@wisconsin.gov) or by calling (608) 224-4625.

**Accessibility:**

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by June 1, 2023, by contacting Coreen Fallat at [DATCPLANDWATER@wisconsin.gov](mailto:DATCPLANDWATER@wisconsin.gov) or by calling (608) 224-4625.

**Initial Regulatory Flexibility Analysis**

The proposed rule will have an effect on small businesses, as defined under s. 227.114 (1). 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. The proposed rule does not create any new reporting, bookkeeping or other procedures for small businesses or require any new professional skills by small businesses.

**Agency Small Business Regulatory Coordinator**

Bradford Steine, [Bradford.Steine1@wisconsin.gov](mailto:Bradford.Steine1@wisconsin.gov), (608) 224-5024