



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary Randy Romanski

DATE: July 10, 2025

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Randy Romanski, Secretary

SUBJECT: ATCP 52, Producer Led Watershed Protection Grants

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

REQUESTED ACTION:

At the July 10, 2025, Board meeting, the Department will ask the DATCP Board to authorize a public hearing on a proposed rule (copy attached), regarding ch. ATCP 52 Producer Led Watershed Protection Grants.

SUMMARY:

The Department published the statement of scope in the May 13, 2024, *Wisconsin Administrative Register* and filed a copy with the Department of Administration. The Joint Committee for Administrative Rules did not request a preliminary public hearing on the scope and the Department chose not to hold a preliminary public hearing on the scope. At the July 11, 2024, meeting, the DATCP board approved the statement of scope.

The Department proposes to amend ATCP 52 to update language to simplify, fix errors, and reflect current practice, update definitions to specify legal entities include certain nonprofit conservation organizations, clarify eligibility for and eligible use of grant funds which includes removal of the \$25 per hour maximum cap for consulting services from rule, and update the title and structure of ATCP 52 to create subchapters which incorporate the two new programs mentioned below.

The Commercial Nitrogen Optimization Pilot Program and Crop Insurance Premium Rebates for Planting Cover Crops Program were created in 2021 Act 223, and administrative rules are necessary to manage the programs. Previously, these programs were managed via an emergency rule.

Under the Commercial Nitrogen Optimization Pilot Program, an agricultural producer may apply for a grant to implement a project for at least two growing seasons, that optimizes the application of commercial nitrogen. The Department considered rule provisions needed to implement the statutory requirements, including the criteria that will be used to prioritize and score applications. Additionally, the Department considered rule provisions that establish the application and award process, identify eligible and ineligible activities and costs, and establish contract and reporting requirements.

The Department may provide a crop insurance premium rebate of \$5 for each acre that is planted with a cover crop. The Department considered how to establish the application and award process, to determine eligible cover crops, and to establish procedures to verify that a cover crop is planted on an acre for which a rebate is provided. The Department also considered how to determine the maximum amount of acres for which an applicant may receive funding in a year, except that the Department may impose such a

maximum only in years in which the total amount of funding requested by eligible applicants exceeds the total funding available.

The Department held an open stakeholder engagement meeting on May 27, 2025, to collect feedback on proposed changes and answer questions. The Department responded to oral comments and questions during the meeting. There were no concerns from stakeholders or written comments received.

If the Board authorizes a public hearing on this rule, the Department will refer a copy of the rule to the Legislative Council Rules Clearinghouse, publish hearing notices in the Wisconsin Administrative Register, and hold a public hearing and written comment period. The Department will then prepare the final draft rule which will be presented for the Board's consideration. If the Board approves, the Department will transmit the rule to the Governor for his written approval.

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

PROPOSED ORDER

The Wisconsin Department of Agriculture, Trade and Consumer Protection proposes an order *to repeal* ATCP 52.05 (10); *to amend* ATCP 52.01, 52.02, 52.02 (1), 52.02 (2), 52.03 (1), 52.03 (2) (d), 52.05 (4), 52.05 (7), 52.05 (8), 52.07 (1); repeal and recreate ATCP 52 (title); *and to create* subch. I, II, and III of ch. ATCP 52; *relating to* producer-led watershed protection grants.

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

Statutes Interpreted: ss. 92.14 (16), 92.14 (17), 93.59

Statutory Authority: ss. 92.14 (16), 92.14 (17), 93.59

Explanation of Agency Authority

Section 93.59 (4), Stats. directs that the Department of Agriculture, Trade and Consumer Protection, hereafter “Department”, is explicitly authorized to define “legal entity” for the purpose of administering the Producer-Led Watershed Protection Grants Program, to promulgate rules to specify the process for applying for a producer-led watershed protection grant and to specify activities that may be conducted using a producer-led watershed protection grant awarded under s. 93.59, Stats.

Section 92.14 (16) (g), Stats. directs the Department to promulgate rules to implement the Commercial Nitrogen Optimization Pilot Program.

Section 92.14 (17), Stats. directs that the Department is explicitly authorized to promulgate rules to determine eligibility for which crop insurance premium rebates are provided for planting cover crops, establish procedures for verifying that a cover crop is planted on acres for which a crop insurance premium rebate is provided, determine the maximum amount of acres for which an applicant may receive funding in a year, and establish the application and award process, including the application deadline and grant award schedule.

Related Statutes and Rules

There are no other directly related rules or statutes, other than those cited above.

Plain Language Analysis

Producer-Led Watershed Protection Grants Program

The existing provisions in ch. ATP 52 establish the Producer-Led Watershed Protection Grants Program which is designed to encourage producers to develop and use innovative approaches and conservation practices that reduce nonpoint source pollution within their watershed. The current rule identifies the purposes of the grants, what expenses the grants may and may not be used for, the grant proposals process, how the Department contracts with legal entities, and how the Department distributes grant funds. This rule will have no negative impact on businesses since it only applies to those businesses that voluntarily seek and are awarded grant funds. Grant funds should positively impact businesses that provide goods and services used in pollution abatement activities under this rule.

This rule does all of the following:

- Updates language to simplify, fix errors, and reflect current practice.
- Updates definitions to specify legal entities include certain nonprofit conservation organizations.
- Clarifies eligibility for and eligible use of grant funds which includes removal of the \$25 per hour maximum cap for consulting services from rule.
- Updates the title and structure of ATP 52 to create subchapters which incorporate the two new programs mentioned below.

Commercial Nitrogen Optimization Pilot Program

The Commercial Nitrogen Optimization Pilot Program is designed to encourage agricultural producers to develop innovative approaches to optimize the application of commercial nitrogen. Section 92.14 (16), Stats., outlines the program:

- Project must span at least two growing seasons.
- Awarded producers will collaborate with a University of Wisconsin System (UWS) institution for project monitoring.
- The UWS institution shall monitor the grant project on-site, and no more than 20% of the grant award may be distributed to the UWS collaborator.
- Grant awards will not exceed \$50,000.
- Priority will be given to producers in different parts of the state and projects in areas that have different soil types or geologic characteristics.
- Priority will be given to innovative projects not currently funded through state or federal programs.
- Priority will be given to longer-term projects.

Grant Purposes

Under this rule, the Department may award grants for projects that focus on commercial nitrogen optimization through:

- Reduction of nitrates in groundwater and surface water.
- Collection of data to ascertain the balance of providing the appropriate amount of commercial nitrogen to a crop at the right time while reducing nitrogen loss to the atmosphere, groundwater or surface water.
- Installation of conservation practices to assist with commercial nitrogen optimization coupled with monitoring runoff and testing soils.
- Optimization of commercial nitrogen use through a variety of agronomic methods and techniques.

Use of Grant Funds

Under this rule, grant funds may be used to reimburse expenses that are determined by the Department to be a reasonable and necessary part of the grant project. Applicants will not be required to provide any match for grant resources. Eligible expenses include, but are not limited to:

- Personnel for coordinator role, including expense for salaries and wages, contract and consulting services, and travel.
- Incentive or stipend payments for landowners who participate in a full-scale commercial nitrogen optimization field study.
- Water quality monitoring and soil testing in collaboration with a UWS institution.
- Agronomy services, including custom application and nutrient management planning.
- Equipment rental for project implementation.
- Equipment purchases needed for project implementation. Equipment purchases over \$2,500 must receive pre-approval from the Department.

Grant funds may not reimburse any of the following expenses:

- Real estate purchases.
- Repayment of loans or mortgages.
- Rent or contract payments for time periods extending beyond the term of the grant contract.
- Equipment purchases that exceed \$2,500, without Department pre-approval.
- Administrative or overhead costs that are not direct costs of the grant project.

Grant Proposals

Under this rule, the Department must issue at least one request for grant proposals in each state fiscal biennium. The Department may issue more frequent requests. The request for proposals must describe the required form and content of the grant proposal and must specify a deadline for submitting grant proposals. Applicants must submit grant proposals to the Department in the manner prescribed within the Department's request for proposals.

Grant Awards

Under this rule, the Department must evaluate grant proposals and notify grants applicants of their award status within 60 days after closing of the grant proposal deadline. The Department must clearly identify each award recipient, the amount of the award, the purposes for which the award is given, and what is to be included in the annual and project reports. The Department may consider the following criteria when evaluating grant proposals and making grant awards:

- Direct impact of the project on commercial nitrogen optimization.
- Location of the project, including geography and geology, to assure awards are distributed across the state.
- The length of the project.
- The innovative approaches to commercial nitrogen optimization being studied in the project.
- Whether the proposed project meets the standards prescribed in this rule.
- The viability of the proposed project.
- The management and technical qualifications of the grant recipient.
- The ability of the UWS institution to collaborate with the grant recipient.
- The adequacy of the project plan and budget.
- Whether the grant proposal and budget adequately identify the nature of project expenses to be reimbursed under the proposed grant.

Grant Contracts

Under this rule, the Department must enter into a contract with a legal entity before distributing funds. The contract must spell out grant terms and conditions, including performance requirements, reporting requirements, and payment terms. Grant recipients will be required to file an annual report with the Department and a final project report.

Crop Insurance Premium Rebates for Planting Cover Crops Program

The Crop Insurance Premium Rebates for Planting Cover Crops Program is offered for acres of cover crops installed outside of state and federal program incentives (e.g., Environmental Quality Incentives Program, Conservation Stewardship Program, and state cost-share). Interested participants may enroll acres planted to cover crops in the fall which will be planted to an insurable crop in the following growing season. Eligible applicants will receive a \$5 per-acre insurance premium discount on the following year's crop insurance invoice for every acre of cover crop enrolled and verified in the program. Applications will be due to the Department in January and must be completed in full for eligibility.

Application requirements include applicant contact information, crop insurance policy number(s), acres of cover crops seeded to each field, farm, tract, common land unit (CLU)/Field #, and verification of fields/acres seeded to cover crops. The Department may not provide a rebate for the planting of a cover crop on an acre for which funding for planting a cover crop is provided from a federal or state grant or incentive program, including from any of the following:

1. The federal environmental quality incentives program under 16 USC 3839aa to 3839-8.
2. The federal conservation stewardship program under 16 USC 3839aa-21 to 3839aa-25.
3. A producer-led watershed protection grant under s. 93.59, Stats.
4. The Soil and Water Resource Management Program s. 92.14 (3), Stats.
5. A lake management planning grant under s. 281.68, Stats.
6. A lake management grant under s. 281.69, Stats.
7. A river protection grant under s. 281.70, Stats.

Applicants will self-certify that the land they are enrolling in the rebate program has not received funding from any of the above sources during that growing season. Rebates will be funded on a first come, first served basis. If requests exceed available funding, the Department may prioritize rebates based on the timing of the application, whether this is the first time a cover crop has been planted on the field, whether the acres have received a rebate previously, and the number of acres for which a rebate is requested. The Department may place a limit on how many acres can be awarded per applicant. The Department will verify applications and respective acreage. The Department may contact applicants for additional clarifying information. Applicants must maintain documentation on cover crops that have been seeded (e.g., seed bills) and follow seed recommendations related to seeding dates, appropriate seeding rates, and seed mixes to ensure objectives of the cover crop are being met. To ensure the practice achieves the desired results, no full-width tillage/termination of the cover crop in the fall is allowed.

Management/termination of the cover crops must be done in the spring in accordance with the USDA Natural Resources Conservation Service Cover Crop Termination Guidelines and Conservation Practice Standard 340. This guidance not only informs proper management of cover crops but must also be followed to maintain eligibility for federal crop insurance. Only acres in cover crops (absent other state or federally incentivized cover crops) will be eligible for the premium discount. Confirmed applications will be forwarded to USDA-Risk Management Agency (RMA) for processing premium discounts on crop insurance premium invoices. Applicants must certify that by signing up for this program, they give the Department permission to share the information provided to the USDA-RMA for administering the benefit to the beneficiary as documented on the application. Applicants also convey permission to the Department or county representative(s) access to the property enrolled, if necessary, to verify cover crop establishment.

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

The Pandemic Cover Crop Program, administered by USDA-RMA, was discontinued in 2022. Pending open enrollment periods, financial assistance for installation of cover crops may be available through the U.S. Department of Agriculture – Natural Resource Conservation Program (USDA-NRCS) Environmental Quality Incentives Program (EQIP) or USDA-NRCS Conservation Stewardship Program (CSP); however,

this approach cost shares the implementation of cover crops as opposed to reducing insurance premium rebates in return for planting cover crops.

There are currently no comparable federal government programs for the Commercial Nitrogen Optimization Pilot Program or Producer-Led Watershed Protection Grants Program.

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

The Joint Committee for Review of Administrative Rules did not request a preliminary hearing on the scope, and the Department chose not to hold a preliminary hearing on the scope.

Comparison with Rules in Adjacent States

No other states currently operate a state program equivalent to the Producer-Led Watershed Protection Grants Program.

Illinois and Iowa independently administer a Cover Crops Premium Discount Program. Each state program offers a \$5 insurance premium discount per acre enrolled and verified in the program. Michigan and Minnesota do not currently operate a state program equivalent.

There is no state sponsored commercial nitrogen optimization programing (adjacent or direct) in Illinois and Michigan. Iowa does not have a formal commercial nitrogen optimization program; however, it does make commercial nitrogen optimization tools and strategies available to its producers. These tools and strategies include the Corn Nitrogen Rate Calculator, which is a tool to estimate potential N-nitrate loss by estimating optimal nitrogen based on fertilizer and corn prices. Minnesota has different nitrogen optimization programs available to producers, including a farmer educational outreach program focused on how nitrogen behaves in the environment. The Minnesota Nitrogen Fertilizer Management Plans include groundwater nitrate testing and evaluation, targeting sensitive areas in the state. This program includes voluntary testing of private wells. Finally, the Minnesota Groundwater Protection rule, Department of Agriculture Rule 1573 – Groundwater Protection, minimizes potential sources of nitrate pollutions to the state's groundwater and protects drinking water by restricting application of nitrogen fertilizer in the fall and on frozen soils in areas vulnerable to contamination, and outlines steps to reduce the severity of the problem in areas where nitrate in public water supply wells is already elevated. Illinois, Iowa, Michigan and Minnesota administer state nutrient loss reduction strategies.

Summary of Factual Data and Analytical Methodologies

The Department worked with representatives of the agriculture industry, potential producer-led groups, and collaborators to develop standards for grant determinations contained in this rule.

The Commercial Nitrogen Optimization Pilot Program was created in s. 92.14 (16), Stats. through 2021 Wisconsin Act 223. The program was run for three years via emergency rules. The Department worked with a variety of stakeholders on the emergency rules as well as this rule. Feedback was collected from numerous stakeholders ranging from agribusiness organizations, conservation groups, county governments, university entities, the federal government, and other collaborators to develop standards for grant determinations contained in this rule.

The Crop Insurance Premium Rebates for Planting Cover Crops program was created in s. 92.14 (17), Stats. through 2021 Wisconsin Act 223. The program was run for three years via emergency rules. The Department worked with a variety of stakeholders on the emergency rules as well as this rule. Feedback

was collected from numerous stakeholders ranging from agribusiness organizations, conservation groups, county governments, university entities, the federal government, and other collaborators to develop standards for grant determinations contained in this rule.

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

Proposed revisions to existing ch. ATP 52 language that implements the Producer-Led Watershed Protection Grants Program under s. 93.59, Stats. are primarily intended to provide clarification and are also expected to have little to no economic impact.

The Commercial Nitrogen Optimization Pilot Program is voluntary and thus imposes no costs on businesses. By providing grant funding up to \$50,000 to agricultural producers and collaborating UWS institutions, the Commercial Nitrogen Optimization Pilot Program will benefit farms, other agriculture businesses and agriculture communities. Grant recipients will directly benefit, while others will benefit indirectly from the increased knowledge producers gain regarding nitrogen optimization for crop production.

The Crop Insurance Premium Rebates for Planting Cover Program is voluntary and thus imposes no costs on businesses. By providing a \$5 rebate to acres planted with a cover crop on eligible acres, this program will benefit farms, agriculture communities, and other agricultural businesses.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on Small Business

The Department's Regulatory Review Coordinator may be contacted by:
Email at Bradford.Steine1@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 August 18, 2025 to be included in the record of rule-making proceedings. Submit comments:

By mail to:
Kelly Martinson

Division of Agricultural Resource Management
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
By email to: DATCPLandWater@Wisconsin.gov

RULE TEXT

SECTION 1. ATCP 52 (title) is repealed and recreated:

CHAPTER ATCP 52

CONSERVATION FARMING INCENTIVE PROGRAMS

SECTION 2. ATCP 52 created to read:

SUBCHAPTER I

PRODUCER-LED WATERSHED PROTECTION GRANTS

SECTION 3. ATCP 52.01 is amended to read:

ATCP 52.01 This subchapter implements the producer-led watershed protection grants program created under 93.59, Stats.

SECTION 4. ATCP 52.02, (1) and (2) are amended to read:

ATCP 52.02 **Definitions.** In this subchapter:

ATCP 52.02 (1) “Department” means the state of Wisconsin department of agriculture, trade and consumer protection.

ATCP 52.02 (2) “Legal entity” includes a corporation, partnership, company, or association registered by the department of financial institutions or a nonprofit conservation organization with tax exempt status under section 501(c)(3) of the internal revenue code.

SECTION 5. ATCP 52.03 (1) and (2) (d) are amended to read:

ATCP 52.03 **(1) REQUEST FOR PROPOSALS.** The department shall issue at least one request for proposals in each fiscal biennium. The request for proposals shall describe the required form and content of grant proposals, and shall specify a deadline for submitting grant proposals, and specify any restrictions or limitations on how the grant funding may be spent. Applicants must submit grant proposals

to the department, in the manner prescribed by the department's request for proposals. The department shall publish the request for grant proposals on its webpage. The department shall also issue a press release announcing its request for proposals to news media likely to give notice to the public. The department shall ~~announce grant awards~~ notify grant applicants of their award status within 60 days of the deadline for submitting grant proposals.

(2) (d) Whether the proposed project meets the standards prescribed in subchapter I of this rule

SECTION 6. ATCP 52.05 (4), (7), and (8) are amended to read:

ATCP 52.05 (4) Personnel for coordinator role including expenses for salaries and wages, contract and consulting services, and mileage ~~at allowable state rates. The maximum amount for any type of labor expense is \$25 per hour as established within the Request for Proposals.~~

ATCP 52.05 (7) Incentive payments for equipment rentals of innovative technologies used or shared by all farmers within the producer-led group, for example covering costs for renting a low-disturbance manure injector or no-till drill.

ATCP 52.05 (8) Rental costs for equipment directly associated with research projects, if pre-approved by ~~project manager~~ the department.

SECTION 7. ATCP 52.05 (10) is repealed.

SECTION 8. ATCP 52.07 (1) is amended to read:

(1) CONTRACT REQUIRED. A successful grant applicant shall enter into a contract with the department before any grant money is distributed to the applicant. No funding commitment is final, and no reimbursable expenses shall be incurred until the contract is executed.

SECTION 9. ATCP 52 is created to read:

SUBCHAPTER II – COMMERCIAL NITROGEN OPTIMIZATION PILOT PROGRAM

ATCP 52.08 Purpose. This subchapter implements the commercial nitrogen optimization pilot program created under s. 92.14 (16), Stats.

ATCP 52.09 Definitions. In this subchapter:

(1) “Agricultural producer” means an individual farmer or a group of farmers each of whom operates an eligible farm. Agricultural producers may collaborate with a legal entity for project management purposes, including completing the application.

(2) “Applicant” means a person or persons who submits an application.

(3) “Commercial Fertilizer” means any substance that contains one or more plant nutrients, is used for its plant nutrient content, and is designed for use or claimed to have value in promoting plant growth.

“Commercial Fertilizer” includes agricultural and nonagricultural fertilizers, fertilizer materials, mixed fertilizers, custom mixed fertilizers, and combination products containing fertilizer. “Commercial Fertilizer” does not include unmanipulated animal or vegetable manure, marl, liming material, wood ashes, or sewage sludge other than finished sewage sludge products.

(4) “Department” means the state of Wisconsin department of agriculture, trade and consumer protection.

(5) “Eligible farm” means a farm, as defined in s. 91.01 (13), Stats.

(6) “Nitrogen optimization” means a project with the potential to use nitrogen in a manner that will sustain soil fertility and crop production while reducing nitrogen loss to the atmosphere, groundwater and surface water.

(7) “Grant recipient” means any person(s) or their authorized agent who has been awarded a grant.

ATCP 52.10 Application requirements and procedures.

(1) REQUEST FOR PROPOSALS. The department shall issue at least one request for proposals in each fiscal biennium for which funding is available. The request for proposals shall describe the required form and content of grant proposals and shall specify a deadline for submitting grant proposals. Applicants must submit grant proposals to the department in the manner prescribed by the department’s request for proposals. The department shall publish the request for proposals on its webpage. The department may also issue a press release announcing its request for proposals to news media likely to give notice to the public. The department shall notify grant applicants of their awards within 60 days of the deadline for submitting grant proposals.

(2) CRITERIA. The department shall consider any of the following when evaluating grant proposals and making grant awards:

- (a) How the project will address commercial nitrogen optimization.
- (b) Location of the project to assure awards are distributed across the state.
- (c) The proposed length and scale of the project.
- (d) The innovative approaches to commercial nitrogen optimization being studied in the project.
- (e) Whether the proposal complies with the department's request for proposals.
- (f) Whether the proposed project meets the standards prescribed in subchapter II of this rule.
- (g) The viability of the proposed project.
- (h) The management and technical qualifications of the grant recipient.
- (i) The ability of the University of Wisconsin System institution to collaborate with the grant recipient.
- (j) The adequacy of the project plan and budget.
- (k) Whether the grant proposal and budget adequately identifies the nature of project expenses to be reimbursed under the proposed grant.

ATCP 52.11 Grant activities. The department may award grants for projects undertaken by agricultural producers that are designed to do any of the following:

- (1) Reduce nitrates in groundwater and surface water.
- (2) Collect data to ascertain the balance of the appropriate application of commercial nitrogen while reducing loss to the atmosphere, groundwater, or surface water.
- (3) Install conservation practices to assist with commercial nitrogen optimization coupled with monitoring runoff and testing soils.
- (4) Optimize commercial nitrogen use via agronomic methods and techniques.

ATCP 52.12 Permitted use of grant funds. Permitted uses for grant funds include the following:

- (1) Personnel for coordinator role, including expenses for salaries and wages, contract and consulting services, and travel, as described in the request for proposals.

(2) Incentive or stipend payments to agricultural producers who participate in a nitrogen optimization field study.

(3) Water quality monitoring.

(4) Soil and plant tissue testing.

(5) Project monitoring support to University of Wisconsin System institutions.

(6) Rent payments for equipment necessary to implement practices.

(7) Equipment purchases necessary for project implementation. Equipment purchases over \$2,500 must have department pre-approval.

(8) Other materials and services required to implement practices, including, but not limited to, agronomy services including custom application, nutrient management planning and cover crop seed.

ATCP 52.13 Project monitoring support. The department shall enter into a contract with a University of Wisconsin System institution, as defined in s. 118.55 (10) (a) 2., Stats., or institutions for project monitoring support. The contract may not exceed twenty percent of the total grant program appropriation.

ATCP 52.14 Grant contracts.

(1) **CONTRACT REQUIRED.** A successful grant applicant shall enter into a contract with the department before any grant money is distributed to the applicant. No funding commitment is final until the contract is executed.

(2) **CONTRACT PROVISIONS.** A grant contract shall be reasonably designed to ensure that the grant recipient carries out the recipient's obligations with respect to the grant. The contract shall be signed by an authorized department official and by the applicant. The parties may amend the contract by mutual written consent.

(3) **BREACH OF CONTRACT.** The department may void a contract and seek return of any funds released under the contract for failure by the grant recipient to perform the recipient's obligations under the contract.

(4) **REPORTING.** Every contract shall set forth a schedule of progress reports and payments. A grant recipient shall provide the department reports at least annually and a final report. The final report may be

substituted for the annual report in the final project year. Reimbursement payments shall be conditioned upon the receipt of reimbursement requests, related documents, and reports, as provided in the contract.

SUBCHAPTER III – CROP INSURANCE PREMIUM REBATES FOR PLANTING COVER CROPS

ATCP 52.15 Purpose. The purpose of this subchapter is to implement the Crop Insurance Premium Rebates for Planting Cover Crops Program created under s. 92.14 (17), Stats.

ATCP 52.16 Definitions. In this subchapter:

(1) “Applicant” means the insurant that submits an application for a rebate under this subchapter.

(2) “Cover crop” means a cropland cover of grass, legume, or other forb planted for seasonal vegetative cover, as defined in s. ATCP 50.68 (4) (a).

(3) “Department” means the state of Wisconsin department of agriculture, trade and consumer protection.

(4) “Insurant” means the individual who has the crop insurance policy.

(5) “Proxy applicant” means a person who may submit an application on behalf of the applicant.

ATCP 52.17 Application requirements and procedures.

(1) The department will open at least one application period in each fiscal biennium if funding is available. The application instructions shall describe the required form and content of rebate applications and a deadline for submitting applications, as well as any restrictions or limitations on how the rebate funding may be spent. The department shall publish the application instructions and application form on its webpage. The department may also issue a press release announcing the application period to news media likely to give notice to the public.

(2) The department shall accept applications until the application deadline. If applications exceed available funding, applications may be evaluated on the following criteria:

(a) The timing of the application.

(b) Whether cover crops have been planted previously.

(c) Whether the acres have received a rebate previously.

(d) The number of acres for which a rebate was requested.

(3) An eligible applicant, as defined under s. ATP 52.18 (1) may apply for a rebate under this subchapter.

(4) The department shall evaluate completed applications to determine which applicants will receive rebates.

(5) Awarded applications will be forwarded to the USDA risk management agency for processing.

ATP 52.18 Eligibility.

(1) Eligible applicants.

(a) Any individual insurer, or their proxy applicant, holding crop insurance may apply for the rebate.

(b) Any land planted with cover crops not ineligible under sub (2) is eligible for the rebate.

(c) No field may receive more than one rebate per calendar year.

(2) Ineligible acres. The department may not provide a crop insurance premium rebate under this subsection for the planting of a cover crop on an acre for which funding for planting a cover crop is provided from a federal or state grant or incentive including from any of the following:

(a) The federal environmental quality incentives program, as defined in 16 USC 3839aa to 3839- 8.

(b) The federal conservation stewardship program, as defined in 16 USC 3839aa-21 to 3839aa-25.

(c) A producer-led watershed protection grant, as defined in s. 93.59, Stats.

(d) A basic allocation to counties grant, as defined in s. 92.14 (3), Stats.

(e) A lake management planning grant, as defined in s. 281.68, Stats.

(f) A lake management grant, as defined in s. 281.69, Stats.

(g) A river protection grant, as defined in s. 281.70, Stats.

(3) The applicant is responsible for self-certifying that acres enrolled in this program are not enrolled in any of the programs listed in s. ATP 52.18 (2).

ATP 52.19 Rebate activities. The department may award a \$5 crop insurance rebate for acres of cover crops installed outside of state and federal program incentives listed in s. ATP 52.18 (2) which are subsequently planted to an insurable crop the following growing season.

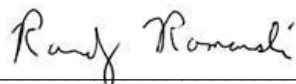
ATP 52.20 Verification.

174 (1) The department may reserve up to 10 percent of the total rebate fund for verification processes.
175 (2) The department may verify acres in cover crops applied for through this program.
176 (a) Applications may be reviewed for overlap of enrollment in other federal and state programs.
177 (b) Applicants may be asked to provide documentation to confirm applied fields were seeded to cover
178 crops.
179 (c) Cover crops may be verified via a site visit.
180 (3) Applicants shall convey permission to the department or a representative from the department access
181 to the property enrolled if necessary to verify cover crop establishment.
182 (4) The department may contract with agency partners to verify cover crop establishment.
183 **ATCP 52.21 Payment.**
184 (1) The department shall partner with the USDA risk management agency to process rebates. Awarded
185 applications will be forwarded to the USDA risk management agency for processing incentives on crop
186 insurance premium invoices.
187 (2) Applicants must certify that by signing up for this program, they give the department permission to
188 share the information provided to the USDA risk management agency for administering the benefit to the
189 beneficiary as documented on the application.

(END OF RULE TEXT)

Dated this __2__ day of _July_, 2025

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION



By: Randy Romanski, Secretary

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 6/12/25								
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) ATCP 52, Producer Led Watershed Protection Grants									
4. Subject Rules governing Producer-Led Watershed Protection Grants Program, Commercial Nitrogen Optimization Pilot Program, and Crop Insurance Premium Rebates for Planting Cover Crops Program									
5. Fund Sources Affected <input 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	6. Chapter 20, Stats. Appropriations Affected s. 20.115 (7) (qf), Stats.								
7. Fiscal Effect of Implementing the Rule <table style="width: 100%;"><tr><td><input type="checkbox"/> No Fiscal Effect</td><td><input type="checkbox"/> Increase Existing Revenues</td><td><input checked="" type="checkbox"/> Increase Costs</td><td><input type="checkbox"/> Decrease Costs</td></tr><tr><td><input type="checkbox"/> Indeterminate</td><td><input type="checkbox"/> Decrease Existing Revenues</td><td colspan="2"><input checked="" type="checkbox"/> Could Absorb Within Agency's Budget</td></tr></table>		<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 checked="" type="checkbox"/> Could Absorb Within Agency's Budget	
<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 checked="" type="checkbox"/> Could Absorb Within Agency's Budget							
8. The Rule Will Impact the Following (Check All That Apply) <table style="width: 100%;"><tr><td><input type="checkbox"/> State's Economy</td><td><input checked="" type="checkbox"/> Specific Businesses/Sectors</td></tr><tr><td><input type="checkbox"/> Local Government Units</td><td><input type="checkbox"/> Public Utility Rate Payers</td></tr><tr><td colspan="2"><input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</td></tr></table>		<input type="checkbox"/> State's Economy	<input checked="" type="checkbox"/> Specific Businesses/Sectors	<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers	<input type="checkbox"/> Small Businesses (if checked, complete Attachment A)			
<input type="checkbox"/> State's Economy	<input checked="" type="checkbox"/> Specific Businesses/Sectors								
<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers								
<input type="checkbox"/> Small Businesses (if checked, complete Attachment A)									
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0									
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									
11. Policy Problem Addressed by the Rule Implements permanent authorities to administer the Commercial Nitrogen Optimization Pilot Program and Crop Insurance Premium Rebates for Planting Cover Crops Program; clarifies existing language in ATCP 52 related to the Producer-Led Watershed Protection Grants and creates flexibility in the rate at which personnel (e.g., group coordinator or contractor) can be compensated, as these expenses have increased significantly since the rule was first promulgated a decade ago.									
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. Feedback was collected from a diverse group of stakeholders ranging from agribusiness organizations, conservation groups, county governments, university entities, and the federal government.									
13. Identify the Local Governmental Units that Participated in the Development of this EIA. Pierce County, Marathon County, Green County									
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) The Department expects the proposed rule to have minimal to no economic impact because the covered programs are voluntary and businesses and individuals must opt into grant participation or to apply for incentives. The proposed rule would amend ch. ATCP 52 to align with ss. 92.14 (16) and 92.14 (17), Stats. The proposed rule creates grant and incentive requirements that have been administered under emergency authority since FY 2022-23. Costs incurred by grant recipients and crop insurance premium rebate applicants are voluntary and include normative agricultural inputs. The Department anticipates minimal economic impact from proposed revisions to existing language in ch. ATCP 52 related to the Producer-Led Watershed Protection Grants Program, as the proposed revisions primarily seek to provide clarification.									

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

Entities impacted by this rule include agricultural producers, non-operator farmland owners, agribusiness and environmental stakeholders, including but not limited to crop insurance agents, agronomists, etc., the University of Wisconsin System and other non-profit entities with a vested interest in conservation and or agriculture. Most affected entities are small businesses, pursuant to the definition under s. 227.485 (2) (c), Stats.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

s. 92.14 (16) (g), Stats. requires the Department to promulgate rules to implement the Commercial Nitrogen Optimization Pilot Program; s. 92.14 (17) (b), Stats. indicates the Department may promulgate rules to administer the Crop Insurance Premium Rebate for Planting Cover Crops Program. Benefits of rule making for the crop insurance premium rebate program include defining cover crops which is not defined in s. 92.14 (17), Stats., and clarifying processes related to applications. s. 93.59, Stats. grants the Department authority to promulgate rules for the Producer-Led Watershed Protection Grants Program, including defining "legal entity" and specifying eligible activities under this grant. Benefits of rule changes to the Producer-Led Watershed Protection Grants program under ATCP 52 includes simplifying and clarifying language, and creating flexibility in the rate at which personnel (e.g., group coordinator or contractor) can be compensated under this grant, as these expenses have increased significantly since the rule was first promulgated a decade ago.

16. Long Range Implications of Implementing the Rule

The rule would align ATCP 52 with the authorities granted or assigned in ss. 92.14 (16) (g) and s. 92.14 (17) (b), Stats. clarifying processes for administration of the Commercial Nitrogen Optimization Pilot Program and Crop Insurance Premium Rebates for Planting Cover Crops Program. The rule would also continue to administer the Producer-Led Watershed Protection Grants Program in alignment with s. 93.59, Stats.

17. Compare With Approaches Being Used by Federal Government

The pandemic cover crop assistance program, administered by USDA-RMA was discontinued in 2022. Pending open enrollment periods, financial assistance for installation of cover crops may be available through the U.S. Department of Agriculture - Natural Resources Conservation Program (USDA-NRCS) Environmental Quality Incentives Program (EQIP) or USDA-NRCS Conservation Stewardship Program (CSP); however, this approach cost shares the implementation of cover crops as opposed to reducing insurance premium rebates in return for planting cover crops. There are currently no comparable federal government programs for the Commercial Nitrogen Optimization Pilot Program or Producer-Led Watershed Protection Grants Program.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

No other states currently operate a state program equivalent to the Producer-Led Watershed Protection Grants program.

Illinois and Iowa independently administer a Cover Crops Premium Discount Program, each state program offers a \$5 insurance premium discount per acre enrolled and verified in the program. Michigan and Minnesota do not currently operate a state program equivalent.

There is no state sponsored nitrogen optimization programming (adjacent or direct) in Illinois and Michigan. Iowa does not have a formal commercial nitrogen optimization program; however, it does make nitrogen optimization tools and strategies available to its producers. These tools and strategies include the Corn Nitrogen Rate Calculator, which is a tool to estimate potential N-nitrate loss by estimating optimal nitrogen based on fertilizer and corn prices. Minnesota has different nitrogen optimization programs available to producers, including a farmer educational outreach program focused on how nitrogen behaves in the environment. The Minnesota Nitrogen Fertilizer Management Plans include groundwater nitrate testing and evaluation, targeting sensitive areas in the state. This program includes voluntary testing of private wells. Finally, the Minnesota Groundwater Protection rule, Department of Agriculture Rule 1573 – Groundwater Protection, minimizes potential sources of nitrate pollutions to the state's groundwater and protects drinking water by restricting application of nitrogen fertilizer in the fall and on frozen soils in areas vulnerable to contamination, and outlines steps to reduce the severity of the problem in areas where nitrate in public water supply wells is already elevated. Illinois, Iowa, Michigan and Minnesota administer state nutrient loss reduction strategies.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

19. Contact Name

Kelly Martinson

20. Contact Phone Number

608-224-6335

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)

The Department expects the proposed rule to have minimal to no economic impact. The proposed rule would amend ch. ATP 52 to align with ss. 92.14 (16) & 92.14 (17), Stats. The proposed rule creates grant and incentive requirements that have been administered under emergency authority since FY 2022-23. Costs incurred by grant recipients and insurance premium rebate applicants are voluntary and include normative agricultural inputs.

Entities impacted by this rule include agricultural producers, non-operator farmland owners, agribusiness and environmental stakeholders, including but not limited to crop insurance agents, agronomists, etc., the University of Wisconsin System and other non-profit entities with a vested interest in conservation and or agriculture. Most affected entities are small businesses, pursuant to the definition under s. 227.485 (2) (c), Stats.

-
2. Summary of the data sources used to measure the Rule's impact on Small Businesses

The proposed rule creates voluntary grant and incentive requirements for the Nitrogen Optimization Pilot Program and Cover Crop Insurance Premium Rebate Program that have been administered under emergency authority since FY 2022-23. Costs incurred by grant recipients and insurance premium rebate applicants are voluntary and include normative agricultural inputs.

-
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:

-
4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

Participation in the Nitrogen Optimization Pilot Program, Cover Crop Insurance Premium Rebate Program, and Producer-Led Watershed Protection Grant Program are voluntary for participants.

-
5. Describe the Rule's Enforcement Provisions

The rule clarifies the Department's authorities to enter into grants for the purpose of nitrogen optimization or producer-led watershed protection activities. Grant contracts may apply articles of administration for compliance with the contract, however, the rule does not otherwise create regulatory enforcement provisions.

-
6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☒ No

Notice of Public Hearing and Comment Period

The Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on a proposed rule affecting ATCP 52, relating to Producer Led Watershed Protection Grants at the time and place shown below.

Hearing Information

Date: Monday August 18th, 2025

Time: 9:00 AM

Location:

Board Room
Agriculture Building
2811 Agriculture Dr. Madison, WI 53708-8911
Room 106

Via Internet Access:

<https://www.zoomgov.com/j/1616257271?pwd=F7GDpa5h1jgUB6O5IaCNMyGwnD9wmD.1>

Meeting ID: 161 625 7271

Passcode: 300927

Find your local number: <https://www.zoomgov.com/u/adviDpVPwg>

Accessibility

Pursuant to the Americans with Disabilities Act, accommodations, including the provision of information material in an alternative format, will be provided for individuals with disabilities upon request. Please call Kelly Martinson at (608) 224-6335 with specific information on your request before the date of the scheduled hearing.

Appearances at the Hearing and Submittal of Written Comments

The purpose of this hearing is to consider public testimony on the proposed rules under consideration. Interested individuals may join the hearing and will be given an opportunity to share oral comments. Alternatively, written comments may be submitted without attending the hearing at <https://docs.legis.wisconsin.gov/code/chr/comment> no later than 5PM August 18th, 2025.

Agency Contact

Kelly Martinson, Program & Policy Analyst
Division of Agricultural Resource Management

Wisconsin Department of Agriculture, Trade and Consumer Protection

Regulatory Flexibility Analysis

***Rule Subject:* Producer-Led Watershed Protection Grant Program**

***Adm. Code Reference:* ATCP 52**

Rules Clearinghouse No.:

***DATCP Docket No.:* 24-R-04**

Rule Summary

This rule implements the Commercial Nitrogen Optimization Pilot Program created under s. 92.14 (16), Stats. Under s. 92.14 (16), Stats., the Department is authorized to award grants for commercial nitrogen optimization pilot projects conducted in collaboration with a University of Wisconsin System institution.

This rule implements the Crop Insurance Premium Rebates for Planting Cover Crops program created under s. 92.14 (17), Stats. Under s. 92.14 (17) Stats., the Department is authorized to provide rebates in the amount of \$5 for each acre of a cover crop planted for crop insurance premiums paid on those acres.

This rule will modify the Producer-Led Watershed Protection Grants Program created by s. 93.59, Stats. Under s. 93.59, Stats., the Department is authorized to provide grants for nonpoint source pollution abatement activities conducted with the assistance of producer-led groups.

This rule does all of the following:

- Updates language to simplify, fix errors, and reflect current practice.
- Updates definitions to specify legal entities include certain nonprofit conservation organizations.
- Clarifies eligibility for and eligible use of grant funds which includes removal of the \$25 per hour maximum cap for consulting services from rule.
- Updates the title and structure of ATCP 52 to create subchapters which incorporate the two new programs mentioned below.

Small Businesses Affected

The Commercial Nitrogen Optimization Pilot Program is voluntary and thus imposes no costs on businesses. By providing grant funding up to \$50,000 to agricultural producers and collaborating University of Wisconsin System (UWS) institutions, the Commercial Nitrogen Optimization Pilot Program will benefit farms, other agriculture businesses and agriculture communities. Grant recipients will directly benefit, while others will benefit indirectly from the increased knowledge producers gain regarding commercial nitrogen optimization for crop production.

The Crop Insurance Premium Rebates for Planting Cover Crops program is voluntary and thus imposes no costs on businesses. By providing a \$5 rebate to acres planted with a cover crop on eligible acres, this program will benefit farms, agriculture communities, and other agricultural businesses.

The Producer-Led Watershed Protection Grants program is voluntary and thus imposes no costs on businesses. By providing grant funding up to \$40,000 per producer-led group, the program will benefit farms, program collaborators, and local businesses and communities from increased outreach, education, and cost share for conservation practices. Changes to this rule will not affect costs on small businesses.

Reporting, Bookkeeping and other Procedures

The proposed rule contains reporting requirements for grant recipients, some of which may be small businesses, to demonstrate progress towards project goals and overall success of their proposed projects. Beyond that, 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 from small businesses.

Accommodation for Small Business

No accommodation for small business will be necessary for the proposed rule. The Department expects the proposed rule to have minimal to no economic impact. The proposed rule would amend ch. ATCP 52 to align with ss. 92.14 (16) and 94.14 (17), Stats. The proposed rule codifies grant and incentive procedures that have been implemented by emergency rule since FY22-23. Proposed revisions to existing ch. ATCP 52 language that implements s. 93.59, Stats. are primarily intended to provide clarification and are also expected to have little to no economic impact.

Conclusion

The Department expects the proposed rule to have minimal to no economic impact due to the voluntary nature of participation in each applicable program.

Dated this 30th day of June, 2025.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By Timothy P. Anderson
Timothy Anderson, Administrator,
Division of Agricultural Resource Management