



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 23-024

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

1. Statutory Authority

SECTION 110 of the order proposes to create a process to develop and revise technical standards to implement the standards and prohibitions under s. 281.16 (3), Stats. It is within the scope of the department’s authority to establish this process by administrative rule (see, in particular, s. 281.16 (3) (b), Stats.). However, proposed s. ATCP 50.618 (d) 3. (*sic*, this section lacks subsections, which is addressed in another comment) indicates that the department will require use of a new or revised technical standard if the department determines that the technical standard will adequately and effectively implement a performance standard under s. 281.16 (3) (a), Stats. If the department aims to require entities to comply with a new or revised technical standard, the new or revised standard should be promulgated as a rule in order to put the public on notice of the applicable standard. [See s. 227.10 (2m), Stats.]

2. Form, Style and Placement in Administrative Code

a. SECTIONS 1 and 5 of the order seek, in part, to eliminate notes from the existing rule and incorporate the content of these notes into substantive provisions. However, the text in the eliminated notes, describing how leachate contains higher contaminant concentrations than contaminated runoff, is generally explanatory in nature. Explanatory material should not be incorporated into substantive provisions of a rule. [See s. 1.12 (1) (b), Manual.] As such, the existing notes could be retained.

b. SECTION 2 of the proposed order should create s. ATCP 50.01 (2s), rather than (2p), to leave more space for future insertions. [s. 1.10 (3) (c), Manual.]

c. SECTION 4 of the proposed order should create s. ATCP 50.01 (10g) and (10r), rather than (10m) and (10r), to leave more space for future insertions. Similarly, the order should create s. ATCP 50.01 (13m), rather than (13d). [s. 1.10 (3) (c), Manual.]

d. SECTION 5 of the proposed order should be separated into two actions: first, to amend s. ATCP 50.01 (15m); and second, to repeal s. ATCP 50.01 (15m) (Note).

- (1) The same consideration should be made with respect to amending and repealing provisions in SECTIONS 43, 52, 60, 64, 122, 124, and 174 of the proposed order.
- e. SECTION 7 of the proposed order should be separated into the following actions:
- (1) Amend s. ATCP 50.01 (27) and (Note).
 - (2) Consolidate, renumber, and amend s. ATCP 50.01 (28) (intro.) and (Note) as s. ATCP 50.01 (28). [See s. 1.04 (7), Manual.]
 - (3) Repeal s. ATCP 50.01 (28) (a) and (b).
- f. In SECTION 14 of the order, within the amendment to s. ATCP 50.04 (1), the “NR” within the cross-reference to s. NR 151.075 at the end of the provision should be omitted.
- g. SECTION 16 of the proposed order should be separated into the following actions:
- (1) To amend s. ATCP 50.04 (3) (dm) 1. and (Note), (e) and (Note), and (f) 1. [Do not show the text of par. (f) (intro.), as that appears to be unamended.]
 - (2) To create s. ATCP 50.05 (3) (f) 1. (Note).
 - (3) To amend s. ATCP 50.04 (3) (f) 4. and (Note). [Do not show the text of par. (f) 2. and 3., as the subdivisions appear to be unamended.]
- h. In SECTION 16 of the order, in the proposed amendment to s. ATCP 50.04 (3) (e) (Note), the stricken phrase “by visiting” should be moved to precede the inserted material. It should be contiguous with the stricken material that precedes the inserted material.
- i. In SECTION 21 of the order, proposed s. ATCP 50.04 (5) includes a subdivision paragraph that is, itself, divided into subunits (see lines 156-160 of the order). This section should be reformatted to avoid this degree of division, as drafting conventions do not contemplate subunits beyond subdivision paragraphs. Division beyond the subdivision level should be avoided whenever possible, though subdivision paragraphs may be used, if necessary. [See s. 1.10 (1) (b) 6., Manual.]
- j. In a number of instances, the rule makes use of the slashed alternative “and/or”. This practice should be avoided. Instead, determine whether the sentence means “and” or “or” and use the appropriate word. If the thought to be expressed involves a choice between one of two alternatives, or both, the proper phrasing to be used is “_____ or _____, or both”. [See s. 1.08 (1) (d), Manual.] Slashed alternatives should be addressed within the following provisions:
- (1) Within SECTION 21 of the order, in proposed s. ATCP 50.04 (5) (c) 2. a. 2. (*sic*, see previous comment regarding this section’s subunits).
 - (2) Within SECTION 136 of the order, in the amendment to s. ATCP 50.70 (1).
 - (3) Within SECTION 142 of the order, in proposed s. ATCP 50.733 (4) (a) 2.
 - (4) Within SECTION 149 of the order, in proposed s. ATCP 50.785 (1).
 - (5) Within SECTION 184 of the order, in proposed s. ATCP 50.925 (5) (b) 6. a. It appears that subdpar. b. similarly intends to use “and/or” (though there is a typo).
 - (6) Within SECTION 191 of the order, in the proposed amendment to s. ATCP 50.98 (1).

k. The treatment clause for SECTION 24 of the proposed order, within the proposed amendment to s. ATCP 50.08 (1), should be revised to include the designation “(intro.)” after “(1)”. Also, the first colon that is shown with a strike-through should be removed, and the final colon should be shown without underscoring.

l. SECTION 29 of the proposed order should be separated into two actions: first, to consolidate, renumber, and amend s. ATCP 50.10 (2) (intro.) and (b) to s. ATCP 50.10 (2); and second, to repeal s. ATCP 50.10 (2) (a). [See s. 1.04 (7), Manual.]

m. SECTION 30 of the proposed order should be separated into multiple SECTIONS to amend or repeal each item, as appropriate, in numerical sequence. When a provision is struck in its entirety, it should be treated as a repeal and the text should not be shown. Also, unaffected text, such as s. ATCP 50.12 (2) (h) and (L), should not be shown. For example, a SECTION should amend s. ATCP 50.12 (2) (a) and (b), and then a new SECTION should repeal s. ATCP 50.12 (2) (b) (Note). This applies to multiple actions in SECTION 30. [See ss. 1.03 (1) and (2) (d) and 1.04 (3) (a) and (b), Manual.]

n. The following comments apply to SECTION 32 of the proposed order:

(1) The SECTION should be separated into two actions: first, to amend s. ATCP 50.16 (1) (a); and second, to repeal s. ATCP 50.16 (1) (a) (Note).

(2) In s. ATCP 50.16 (1) (a), the abbreviation “par.” should be shown with a strike-through, and the underscored plural abbreviation “pars.” should be inserted.

(3) In s. ATCP 50.16 (1) (a), the underscored “, (e)” should be revised to underscored “and (e)”.

o. Within SECTION 33 of the order, it is unclear which provision the reference to “par. (e), sub. (1)” is intended to refer to. It appears that it should reference “sub. (1) (e)”.

p. The treatment clause within SECTION 36 of the order indicates, in part, a repeal of s. ATCP “(6) (b) (3) (Note)”. This should instead refer to “(6) (b) 3. (Note)”. The same correction should be made within the introductory clause of the proposed rulemaking order.

(1) The same error is made within SECTION 42 of the order with respect to the repeal of s. ATCP 50.28 (2) (b) 1. (Note).

q. In SECTION 48 of the proposed rule, rather than amending the provision, the treatment should be revised to renumber and amend s. ATCP 50.30 (2) (intro.) to s. ATCP 50.30 (2).

r. Within the treatment clause of SECTION 49 of the proposed order, commas should be used to separate the provisions to be repealed. The same consideration should be made with respect to the enumeration of the provisions in the rule’s introductory clause. Also, if the department intends to repeal par. (a) (Note), that should be added.

s. The following comments apply to SECTION 58 of the proposed order:

(1) The treatment actions should be revised to appear as follows:

(a) Amend s. ATCP 50.34 (3) (intro.) and (a).

(b) Repeal s. ATCP 50.34 (3) (a) (Note).

(c) Amend s. ATCP 50.34 (3) (c).

- (d) Repeal s. ATCP 50.34 (3) (c) (Note).
 - (e) Amend s. ATCP 50.34 (3) (d) and (4) (a) 1. and 2.
 - (f) Repeal s. ATCP 50.34 (4) (a) 2. (Note).
- (2) In s. ATCP 50.34 (3) (intro.), the final stricken material should precede the final underscored material.
 - (3) In s. ATCP 50.34 (3) (a), the strike-through and underscoring in the final sentence should be corrected to reflect the current text of the rule and to amend words in their entirety.
 - (4) Do not show the text of s. ATCP 50.34 (3) (b), as it appears to be unamended.
 - (5) In s. ATCP 50.34 (4) (a) 2., the “1.” at the end of the provision should not be underscored as it is already present in the current text of the rule. This appears to be a typo, as the “1.” is a hyperlink in the proposed rulemaking order.
 - (6) In s. ATCP 50.34 (4) (d), the final stricken material should precede the final underscored material.
- t. The treatment clause for SECTION 62 of the proposed order should be revised to identify the treated provisions as s. ATCP 50.34 (6) (a) (intro.), 2., and 3.
 - u. SECTION 66 of the proposed order should be separated into the following actions:
 - (1) Renumber s. ATCP 50.36 (3) to s. ATCP 50.36 (3) (a).
 - (2) Repeal s. ATCP 50.36 (3) (Note).
 - (3) Create s. ATCP 50.36 (3) (b) and (c). When a provision is underscored in its entirety, it should be treated as a created provision.
 - v. The following comments apply to SECTION 68 of the order, in proposed s. ATCP 50.38:
 - (1) The section title should be shown in bold font and end with a period.
 - (2) Unless additional subsections are added, the numbering and title for sub. (1) should be removed, and sub. (1) (a) to (d) should be designated as subs. (1) to (4).
 - (3) In sub. (1) (a), the plural abbreviation “ss.” should be revised to the singular “s.”, since the citations are listed in the alternative “or”.
 - w. SECTION 69 of the proposed order should be separated into the following actions:
 - (1) Renumber s. ATCP 50.40 (1) (a) to s. ATCP 50.40 (1).
 - (2) Amend s. ATCP 50.40 (1) (a) (Note).
 - (3) Repeal s. ATCP 50.40 (1) (b) and (Note).
 - x. Within SECTION 69 of the proposed order, the cross-reference to s. ATCP 50.34 (1) is split across separate lines of texts (i.e., see lines 461 and 462 of the order). This appears to be a typo and should be corrected to minimize confusion.
 - y. In the treatment clauses for SECTIONS 72 and 73 of the proposed order, the subdivision designations that appear as “(4)” and “(5)” should be revised to appear as “4.” and “5.”, respectively.

z. In SECTION 79 of the proposed order, the section title for s. ATCP 50.41 should end in a period, and the text in sub. (1) (a) to (c) should each end in a period. Also, in sub. (1) (intro.), consider including a phrase such as “any of the following”.

aa. In SECTION 79 of the order, the cross-references in s. ATCP 50.41 (1) (intro.), (2) (c), and (3) should each be revised to include the designation “ATCP”.

bb. SECTION 80 of the proposed order should be revised into separate actions to amend or repeal the subunits, as appropriate, and the unamended subunits should not be shown.

cc. In SECTION 84 of the proposed order, the identification of sub. (2) in the text appears to have a typo. It is labeled as sub. (1), but should be labeled as sub. (2), and the subsection title should be shown in small capital letters as it is in the current text of the rule.

dd. The following comments apply in SECTION 90 of the proposed order:

(1) The SECTION should be separated into three actions: first, to amend s. ATCP 50.48 (1) (a), (2) (a) 4., (2) (c) (Note), and (4); second, to repeal s. ATCP 50.48 (4) (Note); and third, to renumber and amend s. ATCP 50.48 (6) as ATCP 50.48 (6) (intro.).

(2) The proposed amendment to s. ATCP 50.48 (4) refers to a “[a] person who is named in a disqualification notice under sub. (4)”. This should instead refer to a person who is named in a disqualification notice “under this subsection”, rather than referring to “sub. (4)”. [See. s. 1.15 (2) (c), Manual.]

(a) The same consideration should be made with respect to SECTION 95 of the order (i.e., the reference to “sub. (7)” in proposed s. ATCP 50.50 (7) (c)).

(3) The proposed amendment to s. ATCP 50.48 (6) revises the abbreviation “s.” to the plural form by inserting a second “s” with underscoring before the period. This should instead be revised to show the “s.” with a strikethrough and then “ss.” with underscoring.

ee. In the treatment clause for SECTION 91 of the proposed order, the citation to “note” should appear as “(Note)”.

ff. At the end of the treatment in SECTION 99 of the order, the proposed change to the cross-reference (i.e., the change from s. ATCP 51.18 (6) (Note) to s. ATCP 51.10 (1)) should be indicated by striking the existing cross-reference in its entirety and providing the new cross-reference as underscored text after the strike-through. [See, generally, s. 1.04 (4) (b), Manual.]

gg. Within SECTION 101 of the order, the proposed amendment to s. ATCP 50.56 (3) (b) 4. b. does not properly indicate the removal of the previous standard’s date (i.e., January, 2014) and the addition of text indicating the date of the more recent standard (i.e., November, 2022).

(1) The same consideration should be made with respect to the amendment to s. ATCP 50.62 (5) (e) 2., within SECTION 113 of the order.

hh. In SECTION 101 of the proposed order, the text of s. ATCP 50.56 (3) (b) 4. d. is shown but appears to be unamended. The text of the unamended subunit should be removed and the treatment clause should be revised to identify only the affected subunits.

(1) The same consideration applies to unamended subunits appearing in SECTIONS 108, 113, 134, and 137 of the proposed rule.

ii. SECTION 103 of the proposed order should be separated into two actions: first, to renumber s. ATCP 50.56 (6) (intro.) to s. ATCP 50.56 (6); and second, to repeal s. ATCP 50.56 (6) (a) and (b).

jj. In SECTION 106 of the order, the proposed amendment to change the word “practices” to “practice” should be accomplished by striking the existing word in its entirety and providing the new word as underscored text after the strike-through. [See s. 1.04 (4) (b), Manual.]

kk. SECTION 110 of the order proposes to create s. ATCP 50.618. This proposed section does not use the correct scheme for labeling of subunits. As currently drafted, the provision divides a numbered section into lettered paragraphs, without including numbered subsections. The formatting of this provision should be modified to reflect the style described in s. 1.10 (1), Manual.

ll. The subsection title within SECTION 116 of the order should be presented in small capital letters. The formatting is correctly presented in the current text of the rule.

mm. In SECTION 121 of the proposed rule, the reference to “Sub. (1)” should appear as “sub. (1)”.

nn. In SECTION 127 of the proposed order, the text in s. ATCP 50.688 (1) (a) to (f) should each end in a period. Subsection (2) (intro.) should be revised to include an introductory statement, and sub. (2) (a) 1. should end in a period. Lastly, the text in sub. (4) (b) 1. to 6. should each end in a period.

oo. In SECTION 140 of the order, the proposed amendments do not strike-through the text that should be removed near the end of each subdivision (e.g., “standard 342” near the end of s. ATCP 50.72 (3) (a) 1.). These treatments should be revised to indicate the text to be removed.

pp. Within SECTION 149 of the order, in proposed s. ATCP 50.785 (2), consider using the singular “nutrient treatment system” rather than the plural (i.e., “... any of the following costs related to a nutrient system”). The same consideration could be made with respect to sub. (3), as well as sub. (4) (a). [See s. 1.05 (1) (c), Manual.]

qq. In SECTION 151, the text of proposed s. ATCP 50.79 (3) (a) 1m. should end in a period.

rr. Within SECTION 155 of the order, in the proposed amendment to s. ATCP 50.80 (3) (a) 3., it appears that “technical guide” should be stricken through.

ss. In the treatment clause for SECTION 153 of the proposed order, the designation “(intro.)” should be inserted after “50.80 (2)”. Also, in sub. (2) (intro.), the word “contribute” should be shown with a strike-through and the word “contributes” should be inserted with underscoring.

tt. While the treatment in SECTION 166 of the order is valid, the treatment clause would typically present the renumbering first, rather than stating “...is amended to read and renumbered to...”. Additionally, this treatment should be listed in the “renumber and amend” group within the introductory clause of the order (it is currently characterized separately within the “amend” and “renumber” groups in the introductory clause). [See s. 1.04 (6), Manual.]

uu. The actions in SECTIONS 167 and 168 of the order should be reorganized as follows:

(1) Repeal s. ATCP 50.84 (1) (b).

- (2) Consolidate, renumber, and amend s. ATCP 50.84 (4) (intro.) and (e) as s. ATCP 50.84 (4). [See s. 1.04 (7), Manual.]
- (3) Repeal s. ATCP 50.84 (4) (a) and (b).
- (4) Amend s. ATCP 50.84 (5) (a) and (e).

vv. SECTION 170 of the order proposes, in part, to strike the phrase “standard 350” from the end of s. ATCP 50.86 (4) (b) 2. The phrase should appear as “standards 350” (plural) to reflect the current text of the rule.

ww. In SECTION 177 of the proposed order, the text for proposed s. ATCP 50.88 (3) (a) 6. to 9. should each end in a period.

xx. Within SECTION 172 of the order, the proposed amendment to s. ATCP 50.87 (4) (a) 1. omits the word “karst”, though the word is present in the current text of the rule. It appears that the word should be included but stricken through.

yy. Within SECTION 184 of the order, proposed s. ATCP 50.925 (5) (b) 4. refers to “individual(s)”. This approach of indicating whether a word may be singular or plural should be avoided, and is not necessary as the singular includes the plural. [See s. 1.05 (1) (c), Manual.] Also, the text for proposed s. ATCP 50.925 (5) (b) 1. to 5. and 6. a. should each end in a period.

zz. The following comments apply to SECTION 185 of the proposed order:

- (1) The SECTION should be separated into the following actions:
 - (a) Amend s. ATCP 50.93 (1).
 - (b) Consolidate, renumber, and amend s. ATCP 50.93 (4) (a) (intro.) and 1. to s. ATCP 50.93 (4) (a).
- (2) The proposed amendment to s. ATCP 50.93 (4) (a) does not include the date of the standard currently referenced in the rule (i.e., January, 2014). This date should be included and stricken through.

aaa. The following issues should be addressed within the introductory clause of the proposed order:

- (1) The amendment to s. ATCP 50.01 (2m) is not listed in numerical order within the group of “amend” treatments.
- (2) Within the portion of the introductory clause enumerating the provisions to be repealed, an “and” is missing between “50.18 (1) (b) (Note)” and “(1) (c)”.
- (3) The introductory clause indicates a repeal of s. ATCP 50.28 (1) (c) **2.** (Note), when it should indicate a repeal of s. ATCP 50.28 (1) (c) **3.** (Note)” (reflecting the treatment in SECTION 42 of the order; emphasis added).
- (4) The introductory clause should indicate a repeal of s. ATCP 50.40 “(9) (L) (Note)”, rather than “(9) (l) (Note)”.
- (5) The introductory clause should indicate amendments to “50.46 (7) (c), (8) (a) and (c)...” rather than “50.46 (7) (c), 50.46 (8) (a), 50.46 (8) (c)...”.
- (6) The treatment clause within SECTION 91 of the order indicates the creation of a note, though this is not reflected in the introductory clause of the rulemaking order.

- (7) The introductory clause indicates the creation of s. ATCP 50.62 (f) 1. and 2. where it should indicate the creation of s. ATCP 50.62 (5) (f) 1. and 2. (emphasis added).
- (8) The introductory clause twice references s. ATCP 60.65 when it should reference s. ATCP 50.65.
- (9) The introductory clause indicates an amendment to s. ATCP 50.84 (4) (a) 1., 2., and 3. where it should indicate an amendment to s. ATCP 50.87 (4) (a) 1., 2., and 3. (reflecting the treatment proposed in SECTION 172 of the order).
- (10) The two recurrences of the “ATCP” designation after the original designation in each treatment type should be removed. See the “ATCP” before 50.10 (1) (b) (Note) in the enumeration of repealed provisions, and before 50.30 (2) in the amended provisions.
- (11) The enumeration of provisions treated in the proposed order should be updated to reflect any other changes made in response to these comments.

4. Adequacy of References to Related Statutes, Rules and Forms

- a. Within SECTION 21 of the order, the cross-reference to s. NR 151.015 (17) (an existing definition of Silurian bedrock) appears unnecessary. Notably, the rulemaking order already proposes to create a definition of Silurian bedrock for ch. ATCP 50 that is identical to the definition within ch. NR 151.
- b. Within SECTION 27 of the order, the cross-reference to the order’s proposed definition of “conservation crop rotation” contains a typo. It should reference s. ATCP 50.668 (1).
- c. SECTION 90 of the order proposes, in part, to amend s. ATCP 50.48 (6) to cross-reference s. 91.14, Stats. It appears that this should instead cross-reference s. 92.14, Stats.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. SECTION 3 of the order proposes to redefine “cost-share grant” as “financial assistance that reimburses a landowner for part of the cost to install or maintain a conservation practice identified in the grant”. In turn, SECTION 4 of the order defines “financial assistance” to include, among other things, a cost-share grant. This results in circular definitions, which should be avoided. Consider revising the definition of a “cost-share grant” in a manner that omits using the phrase “financial assistance”, such as “means a reimbursement to a landowner for part of the cost...”. [See s. 1.07 (2) (f), Manual.]

- (1) The same consideration could be made with respect to the definition of “performance payment” within SECTION 8 of the order.

b. Within the note in SECTION 7 of the proposed order, the word “the” should precede “Wisconsin NRCS website” to improve readability.

c. SECTION 7 of the order generally proposes to restructure the definition of “nutrient management plan”. This new definition could be modified in various ways to improve clarity. For instance, the new definition references a plan written by a qualified plan writer while the previous definition references a plan “prepared or approved” by a qualified nutrient management planner. If the intent is to preserve the ability of a planner to simply approve a plan (rather than writing it themselves), the new definition could be modified to better reflect this intent.

- (1) In addition to the above, the latter part of the definition could be rewritten to read “...a qualified plan writer per s. ATCP 50.48 and meeting the requirements under s. ATCP 50.04 (4) or 50.62 (5) (f)” to improve syntax.

d. Within SECTION 16 of the order, in the amendment to s. ATCP 50.04 (3) (dm) 1. (Note), “...is also on file...” should read “...are also on file...”. Additionally, it appears that the note should indicate that the publications are on file with the Legislative Reference Bureau, rather than the Legislative Fiscal Bureau.

e. In SECTION 21 of the order, within proposed s. ATCP 50.04 (5) (c) 1. b., it appears that a space is missing within the cross-reference to s. NR 151.075.

f. Within SECTION 44 of the proposed order, the word “will” should be replaced with “shall”. [See s. 1.08 (1) (b), Manual.]

- (1) The same consideration could be made with respect to the provision created within SECTION 51 of the order. Alternatively, this provision could be created as a note if it simply seeks to provide explanatory material.

g. Within SECTION 56 of the proposed order, the “to” in “...to finance county cost share grants...” should not be stricken.

h. Within SECTION 80 of the order, it appears that a word may be missing within the proposed amendment to s. ATCP 50.42 (1) (dg). The word “under” could be inserted before “ss. NR 151.02 to 151.08...”.

i. In SECTION 81 of the proposed order, “crop-ping” should instead read “cropping”. Additionally, a space should be inserted after “...April 1, 2027...”.

j. Within SECTION 89 of the order, the proposed amendment to s. ATCP 50.46 (11) (b) could be modified to read “...shall review the design and approve the design as being checked” to improve readability.

k. The treatment in SECTION 98 of the proposed order could be modified to clarify whether the committee should include representatives of the University of Wisconsin-Madison or the University of Wisconsin System, more generally.

l. In SECTION 108 of the order, the “a” before the first proposed strike of “cost-share grant” should also be stricken.

m. In SECTION 121 of the order, the cross-reference to sub. (1) should not be capitalized.

n. Within SECTION 125 of the order, proposed s. ATCP 50.66 (3) (a) 4. should be modified to read “...when a trail or walkway crosses a stream”, rather than “...when a trails and walkways...”.

o. The following comments apply in SECTION 127 of the proposed order:

- (1) Proposed s. ATCP 50.668 (2) (intro.) could be rephrased to improve clarity. As currently written, the provision refers to years that have been “diversified”. Should this instead refer to years where a crop rotation was diversified?
- (2) In proposed s. ATCP 50.688 (2) (a) 6., it is also somewhat unclear what is meant by “Interseeding/Planting Green (require guidance based on the practices involved)”. This provision could be modified to provide clarity.

- (3) Proposed s. ATCP 50.668 (2) (b) is somewhat confusing. Specifically, it is unclear what this provision is referring to when it references “this practice”. It is also unclear what “it” is referring to when the provision states “...it may be implemented again on the same land unit”.
- (4) In proposed s. ATCP 50.668 (4) (c), the word “the” should precede “landowner”. Additionally, “conservation crop rotation” should not be capitalized within this paragraph.

p. Within SECTION 134 of the order, in proposed s. ATCP 50.68 (4) (a), the phrase “cover crop” could precede “[m]eets NRCS conservation practices standard...” to improve readability and better complete the sentence provided in the introduction.

q. Within SECTION 137 of the order, in the proposed amendment to s. ATCP 50.705 (5) (a) 8. (Note), a space should be included after the first insertion of “s. NR 213”. Additionally, the note’s cross-reference to s. NR 213.13 should refer to “Section NR 213.13” as it begins a sentence. The final portion of the note (“...and see s. ATCP 51.20 (3) for...”) could also be modified to create a standalone sentence to improve readability.

r. Within SECTION 143 of the order, in proposed s. ATCP 50.738 (3) (a) 1., the reference to the NRCS technical guide for filter strips could be reformatted for consistency with the rule’s other references to NRCS conservation practices standards. The same consideration should be made with respect to the reference to the NRCS standard for herbaceous weed treatment in proposed s. ATCP 50.738 (3) (a) 4.

s. Within SECTION 147 of the order, in s. ATCP 50.77 (4) (a) 1., “1.” is written twice. Additionally, there are two periods at the end of the accompanying note when there should only be one.

t. Within SECTION 149 of the order, s. ATCP 50.785 (2) (f) lists “other nutrient treatment systems” as a reimbursable cost for nutrient treatment systems. This could be modified to provide additional clarity. As drafted, this provision is somewhat circular.

u. Within SECTION 149 of the order, proposed s. ATCP 50.785 (4) could be modified to read “...costs related to a nutrient treatment system...” rather than “nutrient treatment systems cost” to improve readability and make use of the singular rather than plural.

v. Within SECTION 153 of the order, in the proposed amendment to s. ATCP 50.80 (2) (c), a hyphen is inserted after “weed management”. This hyphen appears to be a typo and is unnecessary. Additionally, in the proposed amendment to s. ATCP 50.80 (2) (d), “heavy use protection area” could be rewritten “heavy use area protection” to improve readability and consistency with the terminology used in the NRCS standard.

w. Within SECTION 178 of the order, in proposed s. ATCP 50.882 (2) (b), the word “provide” includes a typo (it is written “pro-vide”). Additionally, in proposed s. ATCP 50.882 (4) (a) 16., a space is missing after the word “communities”.

x. SECTION 181 of the proposed order uses the terms “nutrient treatment system” and “nitrate, nitrogen, or phosphorous removal system”. Would it be possible to use the term “nutrient treatment system” in both instances to provide consistency?

y. Within SECTION 184 of the order, proposed s. ATCP 50.925 (3) (f) provides that “costs to develop field maps as defined in the technical standard” are eligible for reimbursement. This

provision should be modified to clarify which technical standard is being referenced. Additionally, the note following proposed s. ATCP 50.925 (5) (b) 1. should reference "subd. 1." rather than "par. 1.".