ADMINISTRATIVE RULES
FISCAL ESTIMATE
AND ECONOMIC IMPACT ANALYSIS

Type of Estimate and Analysis

☐ Original ☒ Updated ☐ Corrected

Administrative Rule Chapter, Title and Number

ATCP 50, Soil and Water Resource Management Program

Subject

Soil and Water Resource Management

Fund Sources Affected	Chapter 20 , Stats. Appropriations Affected
☒ GPR ☐ FED ☐ PRO ☐ PRS ☒ SEG SEG-S	20.115(7)(c), 20.115(7)(qe), 20.115(7)(qf), 20.866 (2) (we)

Fiscal Effect of Implementing the Rule

☐ No Fiscal Effect ☐ Indeterminate	☐ Increase Existing Revenues ☐ Decrease Existing Revenues	☒ Increase Costs ☐ Could Absorb Within Agency's Budget ☐ Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

☒ State's Economy ☒ Local Government Units	☒ Specific Businesses/Sectors ☐ Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than $20 million?

☐ Yes ☒ No

Policy Problem Addressed by the Rule

ATCP 50 is being revised primarily to implement the new and modified agricultural runoff control standards adopted by the Department of Natural Resources (DNR) in 2011 (hereinafter referred to as "2011 DNR standards"). The 2011 DNR standards require farmers to improve pasture management, maintain a tillage setback, control discharges of process wastewater, meet Phosphorus Index targets for nutrient management, and meet targeted performance standards for Total Maximum Daily Loads (TMDLs). Under state law, the Department of Agriculture, Trade and Consumer Protection ("DATCP" or the "department") is responsible for developing conservation practices and other components to implement performance standards for farms. This rule will update the farm conservation standards in Subchapter II and related definitions, including updates to the RUSLE 2 definition, revise the soil erosion standard to include pastures, modify nutrient management planning requirements for pastures, and identify a method for establishing the distance between five and 20 feet for a tillage setback.

In addition, this rule will make adjustments to improve the framework for the statewide soil and water resource management (SWRM) program. In regard to the farmland preservation program (FPP), this rule will better define conservation compliance requirements, including a phase-in of the updated farm runoff standards in NR 151. This rule will improve the mechanism for distributing department grant funds to counties (Subchapter IV), with a primary goal of ensuring that farmers have access to funds needed for extended implementation responsibilities, and identify a process for providing cost-share dollars that is more efficient and customer friendly. Changes in the rule will also simplify the manner in which engineering practitioners are certified.

In most cases, farmers cannot be required to implement new and modified performance standards unless they receive an offer of 70 percent cost-sharing. This rule will update the technical and other standards for practices cost-shared with state funds in Subchapter VIII.

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)

Impact on Business Sectors

This rule will mostly impact farmers, a great majority of whom qualify as "small businesses." The analysis of the impacts on farms takes into consideration the following factors:

- The proposed rule does not add standards for farms as DNR created those standards in 2011. This rule focuses on several mechanisms for implementation of DNR's standards. DNR's analysis of the 2011 standards was consulted when developing this analysis.
- In its implementation of 2011 DNR standards, this rule includes measures intended to minimize the financial impacts to farmers by including alternatives for soil testing and an animal density threshold for implementation of nutrient management on pastures, and limitations on increasing the tillable setback over 5 feet.
- Most farmers will be insulated from costs of implementation by the state's cost-share requirement and limited state funding available to provide cost-sharing.
- For farmers receiving farmland preservation tax credits, this rule provides flexibility that minimizes the financial impacts related to compliance (which range from $8 to $12 million), by allowing for the use of performance schedules, providing cost-sharing to those eligible, making tax credits or other benefits available to offset some implementation costs, or by allowing them to elect not to collect tax credits under the farmland preservation program.

The proposed rule changes will have a small, but positive impact on businesses other than farmers. Those businesses include nutrient management planners, soil testing laboratories, farm supply organizations, agricultural engineering practitioners, and contractors installing farm conservation practices. The *Final Regulatory Flexibility Analysis*, which accompanies this rule, provides a more complete analysis of the issue.

Utility Rate Payers

The rule will have no impact on utility rate payers.

State and Local Government

This rule is expected to have minimal impact on local and state governments since neither is likely to increase expenditures to accelerate implementation of the 2011 DNR standards within 10 years. This conclusion is based on spending trends over the last 10 years, which have seen state funding for staffing and cost-share grants remain level or in some cases decline, and trends in reducing county commitments to conservation programming. State and local governments are likely to use existing resources for implementation, and prioritize implementation within their existing framework.

<u>Local governments</u>

Full implementation of the 2011 DNR standards requires increased effort from counties who are the primary entities responsible for implementing farm runoff standards, with the bulk of the workload falling on counties with the highest acres in farmland (40 counties have over 175,000 acres of farmland according to the 2007 Ag Census). Within these agricultural counties, those with farmland preservation program (FPP) participants will see the greatest workload increases. Among other things, counties must develop land and water resource management (LWRM) plans to implement expanded state runoff standards, learn requirements to provide effective technical assistance, conduct systematic evaluations of farms to assess their compliance status, prepare records to document their status, identify and access state and federal cost-share funds needed to install additional conservation practices, provide technical assistance to design and install needed conservation practices, and monitor compliance status particularly for farmers who claim FPP tax credits. Most of these work activities must be performed even if cost-share dollars are not increased.

The department believes that an additional 40 county land conservation staff are needed to assist farmers in implementing practices to achieve compliance with the 2011 DNR standards, with the greatest need in the 40 counties with the most farmland. Using the latest salary and fringe benefits costs for engineers, outreach specialists and technicians, whose salary falls within the range of $55,000 to $65,000 per year per person, the department estimates a total annual increase in cost ranging from $2.2 to $2.6 million per year.

Counties are not likely to incur these added costs for needed staff without close to 100 percent state funding for each position. Over the last few years, counties reduced commitments to conservation programs through consolidations and other cost saving measures. Based on the last ten years of spending, the state is unlikely to increase its investment in local conservation staff. In the 2013-2015 biennial budget, the state annual appropriations for county conservation staff will remain below the 10 year average of $9.3 million from 2001 to 2011. Without new resources to pay for staff, counties will prioritize their workload, fitting implementation of the 2011 DNR standards into their existing programs as best they can. Reduced capacity is most likely to impact farmers who need assistance to meet conservation compliance responsibilities associated with the farmland preservation program.

In addition to the increased demand for grant funds to pay for county staff, the state will need to provide landowner cost-sharing to achieve compliance with 2011 DNR standards, and deal with new responsibilities for oversight related to implementation of 2011 DNR standards. In terms of increased debt and appropriations to fund cost-sharing, neither the statutes nor rules demand any specific level of commitment to provide cost-sharing. In the foreseeable future, the department does not anticipate increased expenditures by the state, and therefore is not including increased costs for cost-sharing.

<u>State</u>

Since the nonpoint program redesign was first adopted in 2002, state funding of county staff and landowner cost-sharing has been the ultimate factor driving implementation of the performance standards and prohibitions. While the statutes set goals for state funding [see. s. 92.14(6) (b)], the state is not obligated to provide funding at any particular level to support implementation. As noted above, the state is not likely to increase investment in county staff in the near future.

For similar reasons, the state is not likely to provide additional funding for cost-sharing. If recent history is any indicator, the state will be less inclined to spend taxpayer money and incur debt. In 2012, for example, the department and DNR provided counties about $10.8 million in cost-share funding, a reduction of nearly $8.0 million from the amount provided in 2002 when fewer performance standards were in effect. In the foreseeable future, the department anticipates that much if not all of state funds are likely to be spent on cost-shared practices to comply with the original performance standards and prohibitions adopted in 2002. The *Final Regulatory Flexibility Analysis,* prepared with this rule, provides an analysis of the impacts on farmers as a result of inadequate cost-share funding.

It is reasonable to assume that the rule changes will increase the workload for the department in the following areas: the revision of underlying technical standards, outreach and education, training in the use of SNAP-Plus and other implementation tools, grant oversight and management, farmland preservation compliance monitoring, development of program policies and procedures, technical assistance to install conservation standards, and enhanced coordination with USDA Natural Resources Conservation Service (NRCS) involving training and other matters. Additionally, since counties cannot add staff as result of limited resources, the department will need to fill in the gaps to provide technical assistance for conservation engineering projects and nutrient management planning. In consideration of these factors, the department estimates 2.0 FTE will be required to perform the additional work, with a significant focus of this workload on nutrient management implementation for pastures and the phosphorus index, and conservation engineering for new practices such as feed storage leachate control systems.

State's Economy

While it is difficult to assess the rule's specific impact on the state's economy as a whole, since there are many variables at play, this rule's overall impact is expected to be negligible. First and foremost, it is critical to note that this rule does not impose new runoff control standards on farmers beyond those required by the 2011 DNR standards. This rule's purpose is limited to facilitating implementation of the 2011 DNR standards, primarily with respect to participants who claim FPP tax credits, and this rule takes certain steps to minimize impacts by defining implementation steps. In its limited application, this rule will have the financial impacts discussed in this document and the *Final Regulatory Flexibility Analysis*. In considering the impacts on the state economy as whole, these costs must be balanced against benefits generated by this rule, including improvements in water quality of lakes and rivers that support recreation and tourism, and increased spending power of FPP participants who can continue to claim FPP tax credits or other benefits.

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

Benefits

By facilitating implementation of the 2011 DNR standards, this rule will result in the installation of conservation practices and capital improvements that directly prevent water quality problems and reduce soil erosion. This rule is expected to result in positive environmental impacts. By facilitating implementation of the following farm runoff control standards, this rule is designed to protect water quality and prevent soil loss by:

- Controlling discharges of process wastewater from livestock operations.
- Reducing soil erosion from pastures.
- Expanding nutrient management plan requirements to include pastures.
- Documenting compliance with the phosphorus index through nutrient management plans.

The addition of new requirements ensures a more comprehensive approach to managing runoff from farms, and enables farmers to take actions that better protect natural resources. Provisions in this rule are designed to reduce unintended consequences from the installation of conservation practices. For practices paid for with department funds, cost-share recipients must take actions to mitigate impacts from excavation and other installation activities including measures to manage sediment runoff from construction sites. This rule specifically updates the standards used to mitigate runoff during and after construction of conservation practices. Through changes in cost-share standards and conservation engineering requirements, this rule will also enhance technical and other support for conservation. A full discussion of the benefits is provided in the *Environmental Assessment* prepared in connection with this rule.

Those landowners, whose soil and water resources are improved or protected as a consequence of implementing the 2011 DNR standards, realize certain benefits. By controlling farm runoff and reducing groundwater pollution, these landowners can protect resources that are essential to their business and safeguard their families. Reducing soil erosion maintains the conditions for successful crop production, while controlling discharges from the farm's production can prevent contamination of drinking water wells. Farmers who take corrective actions can reduce their environmental and liability risks. By coming into compliance with conservation requirements, farmers may maintain their eligibility for programs such as the FPP tax credits.

Landowners with properties located "downstream" of lands with nutrient and sediment delivery runoff problems also stand to benefit from the conservation practices required to meet the 2011 DNR standards. For example, nutrient management plans for pastures can improve water quality. Such improvements may help protect the property values of neighboring landowners, particularly those with non-farm holdings.

The general public will benefit from the 2011 DNR standards, but the benefits will vary depending on location and the resource concerns of a particular area. Cleaner water can have direct economic benefits particularly for businesses associated with tourism and recreation. Because of the cost-share requirements, tax dollars will be needed to fund grants that must be provided to farmers to install conservation practices.

Alternatives

No Action

Not promulgating the proposed rule would cause the department to be in violation of state statutes. The department is required to promulgate rules prescribing conservation practices to meet performance standards and to specify a process for the development and distribution of technical standards for the practices [s.281.16(3)(b), Stats.]. The department is also required to promulgate rules related to cost-sharing [s.281.16(3)(e) Stats.]. If no action is taken, the most recent changes to NR 151 will be implemented using the current version of ch. ATCP 50. Should this occur, some of 2011 DNR standards could be implemented while others may not be implemented absent clarification provided by this rule. Unless the department takes action, farmers will not have options to receive cost-share funds for practices such as feed storage leachate runoff control required to meet the 2011 DNR standards, nor will they benefit from other accommodations designed to ease implementation of the 2011 DNR standards. Without an update to ATCP 50, counties, farmers and other landowners will be required to follow outdated rule provisions including technical standards that do not provide improved environmental benefits and may not adequately address stakeholder needs. Failure to update technical standards will result in inconsistent treatment of farmers who must follow one standard for one program and another standard for a different program.

The department must develop applicable land and water conservation standards for owners claiming farmland preservation tax credits [s.91.80, Stats.]. This rule will ensure that the department has in effect the most current standards for conservation compliance.

The department is required to establish, by rule, a nutrient management program [see s.92.05(3)(k), Stats.]. This rule will enable farmers to implement nutrient management on pastures.

The department is required by statute [s.92.18(2)(b), Stats.] to develop and maintain requirements of a certification program for the design and installation of conservation practices in conformance with the engineering approval system used by the Natural Resources Conservation Service. Without rule changes, the department cannot maintain a conservation engineering program that is consistent with NRCS's parallel program. Failure to act on this rule will hinder future coordination of federal, state and local conservation programs.

Finally, the environmental and other benefits of the 2011 DNR standards will not be realized without the department's rule changes.

Modification

The department could modify the proposed rule provisions beyond the accommodations described below. However, the department developed this rule in consultation with government agencies, organizations and industry groups that have supported implementation of the 2011 DNR standards and other provisions of this rule. This rule includes accommodations that address the needs of the most impacted groups, and represent a fair balance between business concerns and the need for natural resource protection. Responding to feedback received during public hearings, the final rule includes additional changes to minimize its impacts. In this regard, this rule:

- Clarifies the process for annual review of nutrient management plans to ensure that plans are updated when needed.
- Allows farmers to identify low cost options to meet new performance standards such as the process wastewater standard, particularly if the discharge can be reduced below the level of significance.
- Seeks voluntary compliance with the rule changes to the maximum extent feasible, consistent with the department's past approach.
- Incorporates NRCS standards for feed storage, manure storage and waste transfer that recognize less costly approaches to manage smaller systems.
- Eases the transition for farmers with pastures by allowing alternatives for soil testing and an animal stocking rate threshold for implementation of nutrient management.
- Improves availability of department cost-sharing by cutting red tape and adding new efficiencies in managing grant funds.
- Minimizes the removal of cropland from production necessary to comply with NR 151, through an interpretation of the tillage setback requirements that requires a consistent approach and documentation.
- Enables conservation engineers to provide a wider range of engineering services to farmers and others by simplifying the process for updating their certification.

Long Range Implications of Implementing the Rule

Implementing 2011 DNR standards is a long-term endeavor. The minimum period for assessing implementation is a ten year horizon. First and foremost, the availability of state and other cost-share funding will determine progress in implementing these standards. If state funding does not increase from current levels, it is not likely that we will see significant progress during the first ten years of implementation. Lapses and other reductions in grant funding, similar to those imposed during recent years, could also slow progress.

This rule cannot be implemented without effective support for the local delivery system provided by county conservation programs. County staff ensures that farmers receive the technical and financial assistance needed to meet their conservation responsibilities. If current trends in state funding persist, efforts to sustain the local capacity to implement the 2011 DNR standards will be lost. On the other hand, increased state funding as described above may keep implementation on track.

Long-term implementation will be defined by the provisions in this rule intended to minimize the impact on farms and other businesses (see the list of accommodations discussed in prior sections). Some of these provisions include a phase-in for the new and modified performance standards for farmers who must meet the conservation compliance requirements to continue to receive a farmland preservation tax credit.

Ultimately the progress made toward implementing the 2011 DNR standards will determine the extent of the improvements in water quality protection and soil erosion control, which are the ultimate goals of the rule.

Compare With Approaches Being Used by Federal Government

NRCS adopts standards for conservation practices receiving cost–share funds from NRCS. Current DATCP rules incorporate many NRCS standards by reference. In most cases, the standards apply only to conservation practices receiving cost–share funds from DATCP. But in some cases (such as nutrient management), DATCP rules incorporate the NRCS standards as mandatory pollution control standards. Enforcement of these mandatory standards is generally contingent upon cost-sharing (there are limited exceptions).

While NRCS sets national standards, the standards vary, to some extent, between states. NRCS coordinates its Wisconsin standard-setting process with DATCP, DNR and others. For purposes of Wisconsin's soil and water conservation program, DATCP may incorporate NRCS standards as written, or may modify the standards as appropriate. This rule will modify current DATCP rules that incorporate NRCS standards by reference. This rule may incorporate updated NRCS standards, or may modify NRCS standards to make them more clear or workable in Wisconsin's soil and water conservation program. It will allow landowners receiving cost-sharing to voluntarily take advantage of new NRCS standards as they are developed, but not yet incorporated into rule; thereby ensuring that they get the most value for their investment in practices.

NRCS provides job approval for engineering practitioners who design, install or approve conservation engineering practices receiving NRCS grant funds. DATCP certifies practitioners who perform similar functions under DATCP rules. As noted above, this rule makes changes to better match the state and federal programs, which ultimately will benefit the landowners who rely on technical services from engineering practitioners.

The United States Department of Agriculture administers a number of 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. As a result of confidentiality requirements, federal cost-sharing provided to landowners through this and other NRCS cost-share programs cannot be publicly disclosed. Without accurate historical data about past use of NRCS cost-sharing to implement state conservation standards, it is difficult to account for the role these funds may play in the future.

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. DATCP attempts to coordinate state programs for conservation funding with relevant federal programs.

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

This comparison examines how surrounding states are addressing issues related to the 2011 DNR standards, with particular focus on the implementation of such standards through farmland preservation activities. In general, the adjacent states do not use statewide performance standards specifically designed to address polluted runoff from agricultural sources. However, these states have various regulations and procedures in place to address many of the polluted runoff sources that these rule revisions address. All four states use the phosphorus index in some form but none use it in the same manner as NR 151 provides. For example, phosphorus management strategies in Michigan are implemented as part of the state's Generally Accepted Agricultural and Management Practices (GAAMPs). Wisconsin's approach differs from the programs in adjacent states in that it has more detail in its phosphorus index, is more quantitative and has more research to validate it. Also, in

Wisconsin, pursuant to s. 281.16, Stats., cost-sharing must be made available to existing agricultural operations before the state may require compliance with the standards. Cost-sharing is often tied to compliance responsibilities in adjacent states, but there are instances where farmers must meet standards other than the phosphorus index as part of regulatory programs.

Illinois

Using a different framework and programming, Illinois implements several standards similar to those adopted in Wisconsin. In addition to implementing a phosphorus index for large livestock operations, Illinois encourages the equivalent of a tillage setback for croplands through a property tax incentive related to the construction of livestock waste management facilities. This incentive applies to the installation of vegetative filter strips in cropland that is surrounding a surface-water or groundwater conduit. Illinois law does not allow raw materials, by-products and products of livestock management facilities, including milkhouse waste, silage leachate, and other similar products to be discharged to waters of the state.

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.

Iowa

Like Illinois, Iowa requires that nutrient management plans for livestock operations of 500 or more animal units be based on the phosphorus index. Iowa does not require a separation distance between tillage activities and waterbodies. Iowa prohibits discharges to waters of the state, polluting waters of the state and discharge to road ditches. Medium-sized livestock operations are required to install runoff controls to eliminate discharges of process wastewater into waters of the state. See Iowa's website at: http://www.iowadnr.gov/portals/idnr/uploads/afo/fs_desncriteria_medcafo.pdf

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.

Michigan

Michigan relies on GAAMPs [see *Generally Accepted Agricultural and Management Practices for Manure Management and Utilization* (January 2012] to support the Michigan Agriculture Environmental Assurance Program (MAEAP), which includes a compliance verification process that ensures nuisance protection to farmers under Michigan's Right to Farm law. GAAMPs covers standards similar to those in Wisconsin including standards for process wastewater and pasture management. These standards are implemented as part of the state's right to farm law and its complaint investigation program. The state assesses problems identified through complaints, and farmers must take corrective action to earn nuisance protection under the right to farm law.

Michigan does not require a separation distance between tillage activities and waterbodies. The state's regulatory requirements regarding process wastewater only apply to permitted concentrated animal feeding operations, but discharges from smaller farms are generally prohibited as a violation of water quality standards.

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

Minnesota

Minnesota implements a variation of a tillage setback in limited settings, requiring a 16.5 foot (one rod) grass strip along certain public drainage ditches as well as vegetated strips, restored wetlands, and other voluntary set-aside lands through federal, state and local programs. For process wastewater, Minnesota rules place a limit of less than 25 mg/l BOD5 (biological oxygen demand) that can be released to surface water and, if released to a leach field, the threshold is less than 200 mg/l BOD5. State and local officials work with pasture owners to prevent and abate water quality violations (Minn. R. chs. 7050 and 7060) that may be created by sediment or nutrient runoff from poorly managed pastures.

Under its feedlot program, Minnesota imposes mandatory requirements on about 25,000 registered feedlots. This program requires feedlot owners, ranging in size from small farms to large-scale commercial livestock operations, to "register with the MPCA, and meet the requirements for runoff discharge, manure application and storage, and processed wastewater."

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.

Public comments including comments in Response to Web Posting

Both DNR and the department have undertaken extensive efforts to receive public feedback. DNR received feedback from members of advisory committees that included small business owners and organizations. The department took the following actions: (1) worked with DNR to determine the scope of the department rule revision, (2) conducted listening sessions that included farm groups, (3) held numerous public hearings throughout the state and held the record open afterward to receive written comments, (4) prepared simplified information materials, and (5) reviewed the rule to identify opportunities to minimize impacts and accommodate small business.

On January 25, 2013, the department posted the hearing draft rule and other documents as required on the department and Wisconsin administrative rules websites to receive comment on the economic impacts of the proposed rule. The department sent email notification to individuals who requested information about the rule and to other persons that the department identified to be interested in the proposed rule. Comments were accepted for a 30-day period as required by the moderate economic impact of the proposed rule.

The department received comments related to the economic impact of this rule from county stakeholders including multiple counties located in the northern part of the state. Their comments focused on the proposed rule's impact on the award and use of department funds to operate land and water conservation programs. Specifically, the comments addressed the following issues: the elimination of the minimum staffing grant requirement, requirements in ch. 92, Stats., to fund county conservation programs, a 10 percent cap on reimbursement of support costs for county staff, restrictions on landowner cost-sharing including a 50 percent maximum cost-share rate for certain non-farm practices, and the level of appropriations and authorizations received by the department to fund county staff and cost-sharing.

After reviewing the comments, DATCP has determined that they do not alter the economic impact analysis of ATCP 50 for the following reasons:

1. Regarding comments on the potential impact of this rule on county staffing grants, the department considered the possible impacts of eliminating the minimum annual staffing grant

and capping support costs, and determined on balance that this action would provide the department greater flexibility to best meet county staffing needs statewide. Specifically, these changes ensure that department funds pay for actual costs related to staff work assisting landowners. In addition, this rule does not specify funding outcomes for any individual county, even though funding criteria have been added by this rule. Each year, the department will make policy decisions to award grants to counties by using the expanded funding criteria in this rule to develop a grant application. Any changes in the annual allocation based on redefined criteria and priorities will not diminish total funds available for grant awards, but will re-distribute benefits of the program. To the extent that ch. 92, Stats., requires certain funding of counties, this rule does not conflict with the statute. Also this rule cannot control appropriations and authorizations provided to the department to fund county programs.

2. Regarding comments on the potential impact of this rule on county cost-sharing, the department considered the possible impacts on certain landowners and small businesses, including farms and local contractors, of establishing a 50 percent maximum cost-share rate and the elimination of cost-sharing on government-owned land. The department determined on balance that this action would maximize statewide funding to support installation of conservation practices on farms. In reaching this conclusion, the department considered that landowners have access to cost-share programs operated by other agencies such as NRCS and DNR that may offer cost-sharing at higher rates or on government-owned land. In addition, this rule does not specify funding outcomes for any individual county, even though funding criteria have been added by this rule. Each year, the department will make policy decisions to award grants to counties by using the expanded funding criteria in this rule to develop a grant application. Any changes in the annual allocation based on redefined criteria and priorities will not diminish total funds available for grant awards, but will re-distribute benefits of the program. To the extent that ch. 92, Stats., requires certain funding of counties, this rule does not conflict with the statute. Also this rule cannot control appropriations and authorizations provided to the department to fund county programs.

3. Regarding comments on the potential for negative impacts to property values due to the proposed rule revisions, the department considers that on balance the rule revisions provide greater flexibility to meet resource concerns statewide, which may result in overall increased property values due to focusing implementation and addressing priority resource mitigation opportunities.

The department responded to each stakeholder who provided comments with the explanation provided in this EIA and encouraged them to submit their comments orally, in writing, or during the hearing comment period. After reviewing the EIA comments and comparing those persons who commented to the listing of persons affected contained in the scope statement, the department determined it did not need to update the stakeholder listing with the Governor's Office of Regulatory Compliance.

During the extensive hearing and comment process with respect to the draft hearing rule, the department received public feedback on the implementation of the new and modified performance standards and other topics such as changes in the cost-sharing of non-farm practices. The department made changes to the final rule to address public concerns. These changes include refining the tillage setback standard to clarify responsibilities, considerations and methods for achieving compliance; defining nutrient management requirements for pastures to include an animal stocking rate threshold for implementation and to provide soil testing alternatives; allowing 50 percent cost-sharing for projects on land owned by local governments; modifying the definition of "farm" in making FPP compliance determinations; and providing greater oversight in regard to local manure storage ordinances.