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**Clearinghouse Rule 14-047**

**DATCP Docket#: 14-R-03**  
**Rules Clearinghouse No. \_\_\_\_\_**

**Proposed Hearing Draft**

**PROPOSED ORDER OF THE WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION  
ADOPTING RULES**

2 The Wisconsin department of agriculture, trade and consumer protection proposes the following  
3 order *to repeal* ATCP 30.22 (2) (a) 3., 33.32 (5) (b), 33.34 (6) (b), 33.44 (2), 42.16 (4) (b) 18.,  
4 123.12 (1) (b), 127.80 (2) (Note); *to amend* ATCP 21.21 (1) (c) 2., 29.11 (3) (a), (b) and (c),  
5 29.15 (4) (b), 29.20 (6) (b), 29.25 (5) (a) 1. and 2., 29.26 (9) (a) (Note) and (b) (Note), 29.54 (1)  
6 (e) 4., ch. 29 Appendix A, 30.10 (8) (title), 30.22 (3) (a) 3. (Note), (5) (b) 2. and (7) (a) (intro.)  
7 and 2. and (b), 30.24 (2) (a), 30.30 (11), 30.31 (3) (b), 33.20 (7) (c) and (Note) and (10) (b)  
8 (Note), 33.32 (5) (a) and (Note), 33.34 (6) (intro.) and (a), 33.38 (1) (a) and (Note), 33.44 (1) (b)  
9 and (Note), 33.52 (3) (d) 2., 33.70 (1) (title), 35.01 (3), 35.02 (1) (e) 2. and (Note), 35.10 (6) and  
10 (Note), 35.16 (6) (a) 1. and (Note), 40.04 (4) (b), 40.06 (2) (a) and (b), 40.08 (8) and (Note),  
11 40.10 (4) (b) 2. and (Note), 40.12 (2) (c) 1. and (Note), 40.16 (1) and (Note), 40.18 (2) and  
12 (Note), 42.01 (9), 42.06 (3) and (Note), 42.16 (1) (b) and (Note) and (2) (b), 42.32 (2) (b) and  
13 (Note), 42.40 (4) (b) and (Note), 42.44 (6) (a), (b) and (c) (Note), 42.46 (3) (c), 42.48 (2) (intro.),  
14 (a) and (Note) and (2) (b) (Note), 42.52 (2) (b), (c) (intro.) and 1., (d), (e), (f), (g) and (o) (intro.),  
15 42.54 (1) (a) and (Note), 42.56 (1) (a), 49.26 (2) (c), 50.04 (3) (dm) 1. and (e), 50.56 (3) (b) 4. a.  
16 and b., 50.62 (5) (e) 1., 2., 4. and 5., 50.64 (1) (e) and (5) (a), 50.65 (3) (a) 1. and 2., 50.66 (3) (a)  
17 1., 2. and 3., 50.68 (4) (a), 50.69 (4) (a) 2., 50.70 (4) (b) 3., 7. and 8., 50.705 (3) (d) and (5) (a)  
18 1., 2. and 3., 50.71 (3) (b) 1., 50.72 (3) (a) 2., 50.73 (3) (d) 2., 4., 10. and 11., 50.75 (4) (a) 1.,  
19 50.76 (5) (a) 1. and 6., 50.77 (4) (a) 2., 3. and 4., 50.80 (3) (a) 4., 5. and 8., 50.83 (3) (a) 2., 50.85  
20 (4) (a) 2., 50.86 (4) (b) 2., 3., 4., 6. and 7., 50.87 (4) (a) 1., 50.88 (3) (a) 2., 3. and 5., 50.885 (4)

1 (a) 1., 2. and 3., 50.90 (3) (b) 1. and 2., 50.91 (3) (b) 6. and 7., 50.92 (3) (b) 1. and 2., 50.93 (4)  
2 (a) 1. and 2., 50.94 (3) (a) 2., 50.95 (3) (a) 2. and 4., 50.96 (3) (b) 2., 6. and 7., 71.02 (5) (b) 3.  
3 and 4., 90.01 (26), 90.08 (14) (a) 2. and (Note), 90.09 (2) (a), (2) (c) (Note) and (4) (a), 91.01 (4)  
4 and (Note), 92.02 (1) and (Note), (2) (a) and (3) (c), 92.06 (1) (a) and (b), (2) and (3), 92.22 (1)  
5 (b) and (Note) and (2), 92.40 (2), 94.200 (1), 105.005 (2), 123.12 (1) (intro.) and (a), 161.43 (3);  
6 and, *to create* ATCP 30.22 (7) (am), 42.16 (2) (b) (Note), 90.09 (15m) and (Note), 92.01 (10d),  
7 (10h) and (Note), (10p) and (Note) and (10t) and (Note), 94.120 (1m); *relating to* various minor  
8 and technical rule changes.

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

This rule makes minor technical changes to a number of current rules administered by the department of agriculture, trade and consumer protection (“DATCP”).

***Statutes Interpreted***

Statutes Interpreted: ss. 91.02, 92.05, 93.48, 94.01(1), 94.64, 94.65, 94.69, 94.72, 94.73, 97.27, 98.07, 100.20 and 100.30, and ch. 168, Stats.

***Statutory Authority***

Statutory Authority: ss. 91.02, 92.05 (3) (c), 93.07 (1), 93.48 (1), 94.01(1), 94.64 (9), 94.65 (9), 94.69 (1), 94.72 (13), 94.73 (11), 97.27 (5), 98.07 (4), 100.20 (2) (a), 100.30 and ch. 168, Stats.

***Explanation of Statutory Authority***

DATCP has general authority, under s. 93.07(1), Stats., to adopt rules to interpret laws under its jurisdiction. It also has specific rulemaking authority related to various matters addressed by this rule (see above). This rule makes minor changes to a number of different rules administered by DATCP. The changes are adopted under essentially the same authority used to adopt the original rules.

***Related Rules or Statutes***

This rule is not substantially affected by statutes or rules other than those identified in this rule.

## ***Plain Language Analysis***

This rule makes minor or technical changes to a number of current DATCP rules. This rule does all of the following:

### **Plant Inspection and Pest Control**

Makes a small change indicating that a state plant regulatory official, rather than a U.S. department of agriculture official, may now declare an area to be infested with thousand cankers disease.

### **Pesticide Use and Control**

- Decreases licensing fees and surcharges to be consistent with recent statutory changes.
- Corrects spelling and capitalization errors.
- Changes several notes to provide online resources for certification, training and examination materials.

### **Pesticide Product Restrictions**

- Corrects incorrect references to subsections and the misspelling of “strychnine.”
- Amends notes to update website addresses.
- Removes outdated reference to treatment of aldicarb from the 1980s.
- Incorporates by reference the most recent edition of the current rule standard concerning pesticide poisonings.
- Modifies the record keeping provision relating to chloropicrin to reflect that soil temperature at the time of application is not required to be kept.

### **Fertilizer and Pesticide Bulk Storage**

- Incorporates by reference the most recent edition of minimum design standards for concrete agricultural containment.
- Updates sections relating to the use of tarps for dry fertilizer unloading from railway cars and sections relating to asphalt and concrete block structures.

### **Agricultural Chemical Cleanup Program**

Amends references required by the renumbering of an administrative code chapter relating to the department of natural resources and corrects a statutory reference to “hazardous substance.”

### **Fertilizer and Related Products**

- Decreases various license and tonnage fees and surcharges to be consistent with recent statutory changes.

- Incorporates by reference the most recent edition of the current rule standard concerning fertilizers.

### **Commercial Feed**

Updates the technical standards in the current rule to the most recent versions. Several notes have been modified to add more information about obtaining electronic copies of those publications.

### **Farmland Preservation**

Makes a small change to add language into the zoning section to match language used in the planning section.

### **Soil and Water Resource Management Program**

Updates several sections to reference the current versions of technical standards.

### **Food Warehouse and Bulk Milk Distributors**

Corrects an outdated fee structure relating to the re-inspection of small warehouses which hold non-potentially hazardous foods versus those that hold potentially hazardous foods.

### **Fair Packaging and Labeling; Selling Commodities by Weight, Measure or Count; Weights and Measures; Petroleum and Other Liquid Fuel Products**

Corrects small grammatical errors and updates the technical reference to cite the current NIST Handbook.

### **Sales Below Cost**

Corrects a grammatical error.

### **Electronic Communications Services**

Aligns the rule with recent legislature changes.

### **Direct Marketing**

Deletes a note no longer necessary in that section.

### **Agricultural Development and Market Promotion**

Amends the “Buy Local” section to reflect a statute change that directs the matching requirement to be an amount at least equal to the grant amount.

### ***Standards Incorporated by Reference***

Pursuant to s. 227.21, Stats., DATCP has requested permission from the Department of Justice to incorporate the updated technical standards incorporated by reference in this rule. Copies of the updated standards will be kept on file with DATCP and the Legislative Reference Bureau.

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

The technical rule changes proposed in this rule will not create any disparities between Wisconsin rules and federal statutes and regulations.

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

The technical rule changes proposed in this rule will not create any disparities between Wisconsin and the adjacent states.

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

This rule does not depend on any complex analysis of data. This rule merely makes minor technical changes to current rules.

### ***Analysis and Supporting Documents Used to Determine Effect on Small Business***

Because this bill makes minor technical changes, no significant analysis or documentation was required to determine that the proposed rule will have no impact on small businesses.

### ***Effect on Business Impact***

This rule will not have any impact on small businesses or other business. This rule makes minor technical changes that will not have any impact on business standards, costs or operations. See the complete *Initial Regulatory Flexibility Analysis* that accompanies this rule.

### ***Environmental Impact***

This “housekeeping” rule will have no significant impact on the environment.

### ***Agency Contact for Submitting Comments***

Questions or comments related to this rule may be sent to the following address:

Kelly Monaghan  
Department of Agriculture, Trade and Consumer Protection  
2811 Agriculture Drive  
Madison, WI 53718  
Telephone: (608) 224-5023

E-Mail: kelly.monaghan@wi.gov

Comments must be received no later than 14 days following the administrative rule hearing which has yet to be scheduled.

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**SECTION 1.** ATCP 21.21 (1) (c) 2. is amended to read:

ATCP 21.21 (1) (c) 2. Any state or country, or any delineated area within a state or ~~nation~~country, which the U. S. department of agriculture ~~state plant regulatory official~~ has declared to be infested with thousand cankers disease.

**SECTION 2.** ATCP 29.11 (3) (a), (b) and (c) are amended to read:

ATCP 29.11 (3) (a) If the applicant sold less than \$25,000 of the product during the preceding year for use in this state, ~~\$3.50~~2.80.

(b) If the applicant sold at least \$25,000 but less than \$75,000 of the product during the preceding year for use in this state, ~~\$120~~ 96.00.

(c) If the applicant sold at least \$75,000 of the product during the preceding year for use in this state, an amount equal to ~~0.75~~ 0.60% of gross revenues from product sales during the preceding year for use in this state.

**SECTION 3.** ATCP 29.15 (4) (b) is amended to read:

ATCP 29.15 (4) (b) An agricultural chemical cleanup surcharge of ~~\$28~~ 22.40.

**SECTION 4.** ATCP 29.20 (6) (b) is amended to read:

ATCP 29.20 (6) (b) Beginning with the license year that begins on January 1, ~~2008~~2015, an agricultural chemical cleanup surcharge of ~~\$38~~30.40

**SECTION 5.** ATCP 29.25 (5) (a) 1. and 2. are amended to read:

ATCP 29.25 (5) (a) 1. A license fee of \$40, ~~except that the license fee is \$30 for each of the license years beginning January 1, 1999 and January 1, 2000.~~

1           2. An agricultural chemical cleanup surcharge of \$1411.20.

2           **SECTION 6.** ATCP 29.26 (9) (a) (Note) and (b) (Note) are amended to read:

3           ATCP 29.26 (9) (a)

4           **Note:** Training consists of a self-study manual and, for some certification categories,  
5           supplementary training sessions. Training may be obtained by contacting the  
6           University of Wisconsin-Extension at the following address: University of  
7           Wisconsin-Extension; Pesticide Applicator Training, Department of Agronomy;  
8           1575 Linden Drive; Madison, WI 53706-1597, phone: (608) 262-7588. Online  
9           information on pesticide certification, training, and examination registration is  
10          available at <http://pestexam.datcp.wi.gov>.

11  
12          (b) **Note:** Examination dates may be scheduled by contacting the department at the  
13          following address: Wisconsin Department of Agriculture, Trade and Consumer  
14          Protection; Division of Agricultural Resource Management, Pesticide  
15          Certification and Licensing; P. O. Box 8911; Madison, WI 53708-8911; Phone  
16          (608) 224-4548. Online examination registration is available at  
17          <http://pestexam.datcp.wi.gov>.

18  
19          **SECTION 7.** ATCP 29.54 (1) (e) 4. is amended to read:

20          ATCP 29.54 (1) (e) 4. A device or system used only to apply pesticides directly to the ~~roots~~  
21          roots  
22          of ornamental trees and shrubs.

23          **SECTION 8.** Ch. ATCP 29, Appendix A, is amended to read:

24

1 Chapter ATCP 29

2 APPENDIX A

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3 This is an example of a notice that complies with ss. ATCP 29.55 (2) and 29.56 (2):

4  
5 NOTICE TO CUSTOMER

6 Before we apply any pesticides to your property, we will provide you with any of the  
7 following information that you request:

- 8 • The common chemical or brand name of each pesticide that may be applied.
- 9
- 10 • A copy of the pesticide label for each pesticide that may be applied. The label will tell you
- 11 the pesticide active ingredient, use directions and safety precautions.
- 12
- 13 • Each date on which pesticides will be applied.
- 14
- 15 • A contact name, address and telephone number where you can obtain further
- 16 information about the pesticide application.
- 17

18 If you want this information in writing, we will provide it free of charge before we make  
19 the application. Whether or not you ask for this pre-application information, we will  
20 provide you with the following information when we complete the application:

- 21 • The name, and license number ~~and certification number~~ of the individual who made or
- 22 directly supervised the application.
- 23
- 24 • The name and location of the pesticide application.
- 25
- 26 • The chemical name, brand name and EPA registration number of each pesticide applied.
- 27
- 28 • The amount of pesticide applied.
- 29
- 30 • The date and time of the pesticide application.
- 31
- 32 • Any post-application precautions which you should observe.
- 33
- 34 • A free copy of the pesticide label (if requested).
- 35

36 We will notify residents of pesticide applications to living areas, and will post warning signs  
37 for lawncare applications, as required by law.



1           **SECTION 9.** ATCP 30.10 (8) (title) is amended to read:

2           ATCP 30.10 (8) (title) ~~STRYCHNINE~~ STRYCHNINE PERMITS.

3           **SECTION 10.** ATCP 30.22 (2) (a) 3. is repealed.

4           **SECTION 11.** ATCP 30.22 (3) (a) 3. (Note) is amended to read:

5           ATCP 30.22 (3) (a) 3.

6           **Note:** A listing of licensed daycares in each county can be found at  
7           <http://dcf.wisconsin.gov/childcare/licensed/search.HTML>~~Directories/LCC-~~  
8           [Directories.HTM](http://dcf.wisconsin.gov/childcare/licensed/search.HTML).

9  
10          **SECTION 12.** ATCP 30.22 (5) (b) 2. is amended to read:

11          ATCP 30.22 (5) (b) 2. Metam sodium and chloropicrin toxicology and poisoning  
12          manifestations as described in *Recognition and Management of Pesticide Poisonings*, United  
13          States environmental protection agency, EPA ~~735-R-98-003~~ 735-K-13-001, ~~March 1999~~ 2013,  
14          ~~fifth~~ sixth edition, or in other materials approved by the department.

15          **SECTION 13.** ATCP 30.22 (7) (a) (intro.), 2., and (b) are amended to read:

16          ATCP 30.22 (7) (a) (intro.) A person applying a ~~chloropicrin pesticide or a metam~~  
17          sodium pesticide shall keep all of the following records:

18                 2. The time of each inspection under sub. ~~(4)~~ (6), the results of the inspection, and any  
19          actions taken under sub. ~~(4)~~ (6) as a result of the inspection.

20                 (b) A person shall retain records under par. (a) ~~and (am)~~ for at least 2 years, and shall  
21          make them available to the department for inspection and copying upon request.

22          **SECTION 14.** ATCP 30.22 (7) (am) is created to read:

23          ATCP 30.22 (7) (am) A person applying a chloropicrin pesticide shall keep all of the  
24          following records:

25                 1. Applicable records required under s. ATCP 29.21 or 29.33.

1           2. The time of each inspection under sub. (6), the results of the inspection, and any  
2 actions taken under sub. (6) as a result of the inspection.

3           **SECTION 15.** ATCP 30.24 (2) (a) is amended to read:

4           ATCP 30.24 (2) (a) *Amount and frequency of use.* No pesticide containing the active  
5 ingredient aldicarb may be applied at a rate exceeding 2 lbs. of aldicarb active ingredient per  
6 acre, or to the same application site more than once in any 2 successive years. ~~Sites treated with~~  
7 ~~aldicarb in 1987 may not be treated with aldicarb in 1988.~~

8           **SECTION 16.** ATCP 30.30 (11) is amended to read:

9           ATCP 30.30 (11) "Irrigation" has the meaning specified in s. ATCP 29.01 ~~(28)~~(22).

10          **SECTION 17.** ATCP 30.31 (3) (b) is amended to read:

11          ATCP 30.31 (3) (b) No person may apply irrigation water to any site to which atrazine  
12 product has been applied ~~on or after April 1, 1991~~ for a 2-year period following the application  
13 of atrazine product, unless the application of irrigation water is conducted in accordance with an  
14 irrigation management program that does not cause the field moisture capacity in the root zone  
15 of the soil being irrigated to be exceeded.

16          **SECTION 18.** ATCP 33.20 (7) (c) and (Note) are amended to read:

17          ATCP 33.20 (7) (c) An enclosure under par. (a) 3. shall consist of a secure wall or fence that is  
18 at least 5 feet tall at every point, and free of gaps that could allow unauthorized persons to enter. Security  
19 fencing installed on a concrete secondary containment structure wall shall comply with chapter 2 of the  
20 ~~*Wisconsin minimum design standards for concrete agricultural containment*~~ *Wisconsin Minimum Design*  
21 *and Construction Standards for Concrete Mixing and Loading Pads and Secondary Containment*  
22 *Structures* (February 2005), if the secondary containment structure is constructed after November 1, 2006.

23          **Note:** The ~~*Wisconsin minimum design standards for concrete agricultural containment*~~  
24 *Wisconsin Minimum Design and Construction Standards for Concrete Mixing and*  
25 *Loading Pads and Secondary Containment Structures* (February 2005), written by

1 Professor David W. Kammel, department of biological systems engineering,  
2 University of Wisconsin-Extension, is on file with the department and the  
3 legislative reference bureau. Copies are available from the department, free of  
4 charge, at the following address:

5  
6 Department of Agriculture, Trade and Consumer Protection  
7 Agricultural Resource Management Division  
8 P.O. Box 8911  
9 Madison, WI 53708-8911  
10 Phone: (608) 224-4500  
11 Web: <http://www.datcp.state.wi.us>  
12

13 **SECTION 19.** ATCP 33.20 (10) (b) (Note) is amended to read:

14 ATCP 33.20 (10) (b)

15 **Note:** A storage facility at which an operator repackages pesticide for sale or distribution  
16 from a storage container to mini-bulk or other containers is considered a  
17 "pesticide producing establishment" under the federal act. The operator of that  
18 storage facility must obtain a pesticide producing establishment number from the  
19 federal environmental protection agency, and must include that establishment  
20 number on every mini-bulk or other container filled at that storage facility. Mini-  
21 bulk containers must be properly labeled, regardless of whether they are mobile  
22 containers.

23  
24 Whenever an operator sells pesticide from a storage container, the operator must  
25 supply the purchaser with the pesticide labeling required under ss. 94.676 and  
26 94.70, Stats.  
27

28 **SECTION 20.** ATCP 33.32 (5) (a) and (Note) are amended to read:

29 ATCP 33.32 (5) (a) ~~Except as provided in par. (b), a~~ A mixing and loading pad shall be  
30 constructed of portland cement concrete. A portland cement concrete mixing and loading pad  
31 constructed on or after November 1, 2006 shall meet the standards specified in chapters 5 and 6  
32 of the ~~Wisconsin minimum design standards for concrete agrichemical containment~~ Wisconsin  
33 Minimum Design and Construction Standards for Concrete Mixing and Loading Pads and Secondary  
34 Containment Structures (February 2005).

35 **Note:** The ~~Wisconsin minimum design standards for concrete agrichemical containment~~  
36 Wisconsin Minimum Design and Construction Standards for Concrete Mixing and  
37 Loading Pads and Secondary Containment Structures (February 2005) were written by  
38 Professor David W. Kammel of the department of biological systems engineering,

1 University of Wisconsin-Extension. Copies are on file with the department and  
2 the legislative reference bureau. Copies are available from the department, at no  
3 charge, at the following address:  
4

5 Department of Agriculture, Trade and Consumer Protection  
6 Agricultural Resource Management Division  
7 P.O. Box 8911  
8 Madison, WI 53708-8911  
9 Phone: (608) 224-4500  
10 Web: <http://www.datcp.state.wi.us>  
11

12 **SECTION 21.** ATCP 33.32 (5) (b) is repealed.

13 **SECTION 22.** ATCP 33.34 (6) (intro.) and (a) are amended to read:

14 ATCP 33.34 (6) UNLOADING DRY FERTILIZER FROM RAIL CARS. Section ATCP 33.30 and  
15 subs. (1) through (5) do not apply to the unloading of dry bulk fertilizer from bottom-unloading  
16 rail cars, provided that the operator unloads the fertilizer over ~~one of the following:~~

17 ~~(a)~~ A fixed or portable containment basin or a portland cement or asphalt concrete pad.  
18 The containment basin shall be made of durable rigid material, and shall effectively contain any  
19 dry fertilizer that may be discharged during the unloading process. The operator shall routinely  
20 inspect and maintain the containment basin or pad to ensure compliance with this paragraph.

21 **SECTION 23.** ATCP 33.34 (6) (b) is repealed.

22 **SECTION 24.** ATCP 33.38 (1) (a) and (Note) are amended to read:

23 ATCP 33.38 (1) (a) A sump that is part of a mixing and loading pad, or part of a portland  
24 cement concrete secondary containment structure, shall be constructed of portland cement  
25 concrete and shall meet the standards specified in chapters 5 and 6 of the ~~Wisconsin minimum~~  
26 ~~design standards for concrete agricultural containment~~ Wisconsin Minimum Design and  
27 Construction Standards for Concrete Mixing and Loading Pads and Secondary Containment Structures  
28 (February 2005).

29 **Note:** The ~~Wisconsin minimum design standards for concrete agricultural containment~~  
30 Wisconsin Minimum Design and Construction Standards for Concrete Mixing and

1 Loading Pads and Secondary Containment Structures (February 2005), written by  
2 Professor David W. Kammel, department of biological systems engineering,  
3 University of Wisconsin-Extension, is on file with the department and the  
4 legislative reference bureau. Copies are available from the department, free of  
5 charge, at the following address:

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8 Agricultural Resource Management Division  
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10 Madison, WI 53708-8911  
11 Phone: (608) 224-4500  
12 Web: <http://www.datcp.state.wi.us>

13  
14 **SECTION 25.** ATCP 33.44 (1) (b) and (Note) are amended to read:

15 ATCP 33.44 (1) (b) A concrete secondary containment structure constructed on or after  
16 November 1, 2006 shall be constructed of portland cement concrete and shall comply with  
17 standards specified in chapters 5 and 6 of the ~~Wisconsin minimum design standards for concrete~~  
18 ~~agrichemical containment~~ Wisconsin Minimum Design and Construction Standards for Concrete  
19 Mixing and Loading Pads and Secondary Containment Structures (February 2005).

20 **Note:** The ~~Wisconsin minimum design standards for concrete agrichemical containment~~  
21 Wisconsin Minimum Design and Construction Standards for Concrete Mixing and  
22 Loading Pads and Secondary Containment Structures (February 2005), written by  
23 professor David W. Kammel, department of biological systems engineering,  
24 University of Wisconsin-Extension, is on file with the department and the  
25 legislative reference bureau. Copies are available free of charge from the  
26 department at the following address:

27  
28 Department of Agriculture, Trade and Consumer Protection  
29 Agricultural Resource Management Division  
30 P.O. Box 8911  
31 Madison, WI 53708-8911  
32 Phone: (608) 224-4500  
33 Web: <http://www.datcp.state.wi.us>

34  
35 **SECTION 26.** ATCP 33.44 (2) is repealed.

36 **SECTION 27.** ATCP 33.52 (3) (d) 2. is amended to read:

37 ATCP 35.53 (3) (d) 2. None of the samples analyzed under sub. (4) (b) contains more  
38 ~~than~~ at least 20 milligrams of the total nitrogen per liter.

1           **SECTION 28.** ATCP 33.70 (1) (title) is amended to read:

2           ATCP 33.70 (1) (title) ~~A-SS~~ASSESSMENT ASSESSMENT REQUIRED.

3           **SECTION 29.** ATCP 35.01 (3) is amended to read:

4           ATCP 35.01 (3) "Agricultural chemical" means a substance that is a fertilizer or a  
5 nonhousehold pesticide, and that is a hazardous substance as defined in s. ~~292.01(5)~~299.01(6),  
6 Stats.

7           **SECTION 30.** ATCP 35.02 (1) (e) 2. and (Note) are amended to read:

8           ATCP 35.02 (1) (e) 2. Applicable rules of the department of natural resources under chs.  
9 NR 700, 706, 708 and 712 to ~~726727~~.

10           **Note:** For corrective actions under this chapter, the department is authorized to review  
11 compliance with chs. NR 700, 706, 708, and 712 to ~~726727~~, and to grant required  
12 approvals and variances under those chapters on behalf of the department of  
13 natural resources.

14  
15           **SECTION 31.** ATCP 35.10 (6) and (Note) are amended to read:

16           ATCP 35.10(6) The corrective action complies with applicable requirements under chs.  
17 281 to 285 and 289 to 299, Stats., this chapter, chs. ATCP 29 to 33, and chs. NR 700, 706, 708  
18 and 712 to ~~726727~~.

19           **Note:** For corrective actions under this chapter, the department is authorized to review  
20 compliance with chs. NR 700, 706, 708, and 712 to ~~726727~~, and to grant required  
21 approvals and variances under those chapters on behalf of the department of  
22 natural resources.

23  
24           **SECTION 32.** ATCP 35.16 (6) (a) 1. and (Note) are amended to read:

25           ATCP 35.16 (6) (a) 1. That the contract services will comply with applicable  
26 requirements under this chapter, chs. ATCP 29 to 33, and chs. NR 700, 706, 708 and 712 to  
27 ~~726727~~.

28           **Note:** For corrective actions under this chapter, the department is authorized to review  
29 compliance with chs. NR 700, 706, 708, and 712 to ~~726727~~, and to grant required

1 approvals and variances under those chapters on behalf of the department of  
2 natural resources.

3  
4 **SECTION 33.** ATCP 40.04 (4) (b) is amended to read:

5 ATCP 40.04 (4) (b) A ~~\$14~~11.20 agricultural chemical cleanup surcharge for each  
6 business location and each mobile unit at which the applicant proposes to manufacture fertilizer  
7 in this state, other than a business location or mobile unit licensed under s. 94.685 or 94.703,  
8 Stats. If the applicant distributes but does not manufacture fertilizer in this state, the applicant  
9 shall pay a single agricultural chemical cleanup surcharge of ~~\$14~~11.20.

10 **SECTION 34.** ATCP 40.06 (2) (a) and (b) are amended to read:

11 ATCP 40.06 (2 ) (a) A basic fee of ~~30~~23 cents per ton, or \$25, whichever is greater.

12 (b) A research fee of ~~10~~17 cents per ton, or \$1, whichever is greater.

13 **SECTION 35.** ATCP 40.08 (8) and (Note) are amended to read:

14 ATCP 40.08 (8) TERMS AND DEFINITIONS. Terms used in fertilizer labeling shall be  
15 consistent with the fertilizer terms and definitions contained in the *Official Publication of the*  
16 *Association of American Plant Food Control Officials, No. 57-(2004)67 (2014).*

17 **Note:** The *Official Publication of the Association of American Plant Food Control*  
18 *Officials, No. 57-(2004)67 (2014).* is on file with the department and the  
19 legislative reference bureau. Copies may be obtained from the treasurer of the  
20 Association of American Plant Food Control Officials, Inc., North Carolina  
21 Department of Agriculture, P.O. Box 33508, Raleigh, NC 33636-3508, or online  
22 at <http://www.aapfco.org>.  
23

24 **SECTION 36.** ATCP 40.10 (4) (b) 2. and (Note) are amended to read:

25 ATCP 40.10 (4) (b) 2. Identify the source of each plant nutrient, using only terms defined  
26 in the *Official Publication of the Association of American Plant Food Control Officials, No. 57-*  
27 *(2004)67 (2014).*

28 **Note:** The *Official Publication of the Association of American Plant Food Control*  
29 *Officials, No. 57-(2004)67 (2014)* is on file with the department and the legislative  
30 reference bureau. Copies may be obtained from the treasurer of the Association of

1 American Plant Food Control Officials, Inc., North Carolina Department of  
2 Agriculture, P.O. Box 33508, Raleigh, NC 33636-3508, or online at  
3 <http://www.aapfco.org>.  
4

5 **SECTION 37.** ATCP 40.12 (2) (c) 1. and (Note) are amended to read:

6 ATCP 40.12 (2) (c) 1. The source material is accurately described by a term defined in  
7 the *Official Publication of the Association of American Plant Food Control Officials, No. 57*  
8 ~~(2004)~~67 (2014).

9 **Note:** The *Official Publication of the Association of American Plant Food Control*  
10 *Officials, No. 57* ~~(2004)~~67 (2014) is on file with the department and the legislative  
11 reference bureau. Copies may be obtained from the treasurer of the Association of  
12 American Plant Food Control Officials, Inc., North Carolina Department of  
13 Agriculture, P.O. Box 33508, Raleigh, NC 33636-3508, or online at  
14 <http://www.aapfco.org>.  
15

16 **SECTION 38.** ATCP 40.16 (1) and (Note) are amended to read:

17 ATCP 40.16 (1) SAMPLING METHODS. The department may collect official fertilizer  
18 samples to determine compliance with plant nutrient guarantees. The department shall collect  
19 official samples using applicable methods from the ~~*Inspectors*~~*Inspection Manual of the*  
20 *Association of American Plant Food Control Officials, 6~~th~~8th* edition ~~(1999)~~(2009).

21 **Note:** The *Inspectors Manual of the Association of American Plant Food Control*  
22 *Officials, 6~~th~~8th* edition ~~(1999)~~(2009) is on file with the department and the  
23 legislative reference bureau. Copies are available from the treasurer of the  
24 Association of American Plant Food Control Officials, Inc., North Carolina  
25 Department of Agriculture, P.O. Box 33508, Raleigh, NC 33636-3508, or online  
26 at <http://www.aapfco.org>.  
27

28 **SECTION 39.** ATCP 40.18 (2) and (Note) are amended to read:

29 ATCP 40.18 (2) No fertilizer may contain a metal in a concentration that exceeds the  
30 maximum allowable concentration specified for that metal in the ~~statement of uniform~~  
31 ~~interpretation and policy No. 25, contained in the~~ *Official Publication of the Association of*



1 *American Plant Food Control Officials, No. 5767, statement of uniform interpretation and policy*  
2 *number 25, (20042014).*

3 **Note:** Statement of uniform interpretation and policy number 25, from the *Official*  
4 *Publication of the Association of American Plant Food Control Officials, No.*  
5 *5767 (20042014)*, is on file with the department and the legislative reference  
6 bureau. Copies may be obtained from the treasurer of the Association of  
7 American Plant Food Control Officials, Inc., North Carolina Department of  
8 Agriculture, P.O. Box 33508, Raleigh, NC 33636-3508, or online at  
9 <http://www.aapfco.org>.

10  
11 **SECTION 40.** ATCP 42.01 (9) is amended to read:

12 ATCP 42.01 (9) "Feed ingredient" ~~means a constituent material, used in the manufacture~~  
13 ~~of a commercial feed, that becomes part of the commercial feed~~ has the meaning specified in s.  
14 94.72(1)(g), Stats.

15 **SECTION 41.** ATCP 42.06 (3) and (Note) are amended to read:

16 ATCP 42.06 (3) SINGLE-INGREDIENT FEEDS. Product names for single-ingredient  
17 commercial feeds shall be consistent with the feed ingredient definitions specified in the  
18 ~~20062014~~ *Official Publication of the Association of American Feed Control Officials.*

19 **Note:** Copies of the *Official Publication of the Association of American Feed Control*  
20 *Officials* are on file with the department and the legislative reference bureau.  
21 ~~Copies may be obtained from AAFCO treasurer; the name and address of the~~  
22 ~~current AAFCO treasurer may be obtained by contacting the department~~ Paper or  
23 electronic copies may be obtained from AAFCO at [www.aafco.org](http://www.aafco.org).  
24

25 **SECTION 42.** ATCP 42.16(1) (b) and (Note) are amended to read:

26 ATCP 42.16 (1) (b) Paragraph (a) does not apply to a commercial feed which is defined  
27 as a single ingredient feed product by the ~~20062014~~ *Official Publication of the Association of*  
28 *American Feed Control Officials.*

29 **Note:** Copies of the *Official Publication of the Association of American Feed Control*  
30 *Officials* are on file with the department and the legislative reference bureau. ~~You~~  
31 ~~may also obtain a copy from the AAFCO treasurer whose address is available~~

1 ~~from the department~~ Paper or electronic copies may be obtained from AAFCO at  
2 [www.aaftco.org](http://www.aaftco.org).

3  
4 **SECTION 43.** ATCP 42.16 (2) (b) is amended to read:

5 ATCP 42.16 (2) (b) The official name of that ingredient as stated in the ~~2006~~2014  
6 *Official Publication of the Association of American Feed Control Officials.*

7 **SECTION 44.** ATCP 42.16 (4) (b) 18. is repealed:

8 **SECTION 45.** ATCP 42.32 (2) (b) and (Note) are amended to read:

9 ATCP 42.32 (2 ) (b) The official name of that ingredient as stated in the ~~2006~~2014  
10 *Official Publication of the Association of American Feed Control Officials.*

11 **Note:** Copies of the *Official Publication of the Association of American Feed Control*  
12 *Officials* are on file with the department and the legislative reference bureau. ~~You~~  
13 ~~may also obtain a copy from the AAFCO treasurer whose address is available~~  
14 ~~from the department~~ Paper or electronic copies may be obtained from AAFCO at  
15 [www.aaftco.org](http://www.aaftco.org).

16  
17 **SECTION 46.** ATCP 42.40 (4) (b) and (Note) are amended to read:

18 ATCP 42.40 (4) (b) The official name of that ingredient as stated in the ~~2006~~2014  
19 *Official Publication of the Association of American Feed Control Officials.*

20 **Note:** Copies of the *Official Publication of the Association of American Feed Control*  
21 *Officials* are on file with the department and the legislative reference bureau. ~~You~~  
22 ~~may also obtain a copy from the AAFCO treasurer whose address is available~~  
23 ~~from the department~~ Paper or electronic copies may be obtained from  
24 AAFCO at [www.aaftco.org](http://www.aaftco.org).

25  
26 **SECTION 47.** ATCP 42.44 (6) (a), (b) and (c) (Note) are amended to read:

27 ATCP 42.44 (6) (a) The dog or cat food, when fed in recommended amounts, meets all  
28 nutrient requirements established in applicable pet nutrient profiles specified in the ~~2006~~2014  
29 *Official Publication of the Association of American Feed Control Officials.*

1 (b) The dog or cat food is adequate as a sole source of nourishment for dogs or cats when  
2 fed according to label directions and according to feeding protocols for dogs and cats specified in  
3 the 2014 Official Publication of the Association of American Feed Control Officials.

4 (c) **Note:** Copies of the *Official Publication of the Association of American Feed Control*  
5 *Officials* are on file with the department and the legislative reference bureau. ~~You~~  
6 ~~may also obtain a copy from the AAFCO treasurer whose address is available~~  
7 ~~from the department department~~ Paper or electronic copies may be obtained from  
8 AAFCO at [www.aafco.org](http://www.aafco.org).  
9

10 **SECTION 48.** ATCP 42.46 (3) (c) is amended to read:

11 ATCP 42.46 (3) (c) Capable of being kept ~~in a~~ clean and in good repair.

12 **SECTION 49.** ATCP 42.48 (2) (intro.), (a) and (Note) are amended to read:

13 ATCP 42.48 (2) (intro.) NUTRITIONAL STANDARDS. Except as provided under sub. (3),  
14 no person may manufacture or distribute a commercial feed intended for dairy cattle, equine,  
15 sheep, goats, ducks, geese, rabbits, mink, foxes, swine, poultry, fish, veal calves or herd  
16 replacement calves unless one of the following applies:

17 (a) The commercial feed complies with applicable nutritional standards published by the  
18 ~~committee on animal nutrition,~~ national research council, national academy of sciences contained  
19 in one of the following: *Nutrient Requirements of Dairy Cattle* (7<sup>th</sup> revised edition, 2001),  
20 *Nutrient Requirements of Horses* (6<sup>th</sup> revised edition, 2007), *Nutrient Requirements of Swine*  
21 (11<sup>th</sup> revised edition, 2012), *Nutrient Requirements of Fish and Shrimp* (2011), *Nutrient*  
22 *Requirements of Small Ruminants: Sheep, Goats, Cervids, and New World Camelids* (2007),  
23 *Nutrient Requirements of Beef Cattle* (7<sup>th</sup> revised edition, 1996, update 2000), *Nutrient*  
24 *Requirements of Poultry* (9<sup>th</sup> revised edition, 1994), *Nutrient Requirements of Rabbits* (2<sup>nd</sup>  
25 revised edition 1977), and the *Nutrient Requirements of Mink and Foxes* (2<sup>nd</sup> revised edition,  
26 1982).

1 **Note:** Copies of the nutritional standards ~~underlisted in~~ par. (a) are on file with the  
2 department and the legislative reference bureau. Copies may also be obtained  
3 from the National Academies Press, 500 Fifth St N.W., Washington, D.C. 20001,  
4 telephone 800-624-6242, e-mail: [customer\\_service@nap.edu](mailto:customer_service@nap.edu) or at the website  
5 [www.nap.edu](http://www.nap.edu).  
6

7 **SECTION 50.** ATCP 42.48 (2) (b) (Note) is amended to read:

8 ATCP 42.48 (2) (b)

9 **Note:** If the department has reason to believe that a commercial feed intended for dairy  
10 cattle, beef cattle, equine, sheep, goats, ducks, geese, rabbits, mink, foxes, swine,  
11 poultry, fish, veal calves or herd replacement calves is not suitable for its intended  
12 use, the department may request documentation showing that the feed complies  
13 with par. (a) or (b).  
14

15 **SECTION 51.** ATCP 42.52 (2) (b), (c) (intro.) and 1., (d), (e), (f), (g) and (o) (intro.) are  
16 amended to read:

17 ATCP 42.52 (2) (b) The feed contains any added poisonous, deleterious, or non-nutritive  
18 substance which is unsafe within the meaning of ~~21 CFR 406~~ 21 USC 346. This paragraph does  
19 not apply to either of the following:

20 (c) (intro.) A raw agricultural commodity in the feed contains the residue of a pesticide  
21 that is unsafe within the meaning of ~~21 CFR 408(a)~~ 21 USC 346a, unless all of the following  
22 apply:

23 1. The pesticide chemical was applied to the raw agricultural commodity according to an  
24 exemption or tolerance under ~~21 CFR 408~~ 21 USC 346a.

25 (d) The feed, if fed to an animal, will likely cause the edible product of that animal to  
26 contain a pesticide residue which is unsafe within the meaning of ~~21 CFR 408(a)~~ 21 USC  
27 346a(a).

28 (e) The feed contains any food additive which is unsafe within the meaning of ~~21 CFR~~  
29 409 21 USC 348.

1 (f) The feed contains any color additive which is unsafe within the meaning of ~~21 CFR~~  
2 ~~706~~21 USC 379e.

3 (g) The feed contains any new animal drug which is unsafe within the meaning of ~~21~~  
4 ~~CFR 512~~21 USC 360b.

5 (o) (intro.) The feed, when used in normal feeding according to label directions, raises  
6 the fluorine content of the total ration, excluding ~~of~~ roughage, above the following amounts for  
7 the following classes of animals:

8 **SECTION 52.** ATCP 42.54 (1) (a) and (Note) are amended to read:

9 ATCP 42.54 (1) (a) The non-protein nitrogen ingredients are identified in the ~~2006~~2014  
10 *Official Publication of the Association of American Feed Control Officials*.

11 **Note:** Copies of the *Official Publication of the Association of American Feed Control*  
12 *Officials* are on file with the department and the legislative reference bureau. ~~You~~  
13 ~~may also obtain a copy from the AAFCO treasurer whose address is available~~  
14 ~~from the department~~Paper or electronic copies may be obtained from AAFCO at  
15 [www.aafo.org](http://www.aafo.org).

16  
17 **SECTION 53.** ATCP 42.56 (1) (a) is amended to read:

18 ATCP 42.56 (1) (a) A holding order ~~or stop sale order~~ under s. 94.72 (13) (b), Stats.

19 **SECTION 54.** ATCP 49.26 (2) (c) is amended to read:

20 ATCP 49.26 (2) (c) All spatial location data used to delineate the farmland preservation  
21 zoning districts proposed for certification, submitted in accordance with department  
22 requirements on format.

23 **SECTION 55.** ATCP 50.04 (3) (dm) 1. and (e) are amended to read:

24 ATCP 50.04 (3) (dm) 1. Standard values specified in NRCS Wisconsin Conservation  
25 Planning Technical Note WI-1 (September, 2007/November, 2008), companion document to the  
26 NRCS technical guide standard 590.

1 (e) The plan shall comply with the NRCS technical guide nutrient management standard  
2 590 (September, 2005), except for sections V. D., V. E., and VI., and shall also comply with the  
3 *Wisconsin Conservation Planning Technical Note WI-1* (~~September, 2007~~November, 2008).

4 **SECTION 56.** ATCP 50.56 (3) (b) 4. a. and b. are amended to read: ATCP 50.56 (3) (b) 4.

5 a. NRCS technical guide waste storage facility standard 313 (~~June, 2013~~January, 2014).

6 b. NRCS technical guide ~~manure~~waste transfer standard 634 (~~September, 2012~~January,  
7 2014).

8 **SECTION 57.** ATCP 50.62 (5) (e) 1., 2., 4. and 5. are amended to read:

9 ATCP 50.62 (5) (e) 1. NRCS technical guide waste storage facility standard 313 (~~June,~~  
10 ~~2013~~January, 2014).

11 2. NRCS technical guide waste transfer standard 634 (~~September, 2012~~January, 2014).

12 4. NRCS technical guide fence standard 382 (~~September, 2010~~January, 2014).

13 5. NRCS technical guide heavy use area protection standard 561 (~~January, 2011~~April,  
14 2014).

15 **SECTION 58.** ATCP 50.64 (1) (e) and (5) (a) are amended to read:

16 ATCP 50.64 (1) (e) Heavy use area protection described in NRCS technical guide heavy  
17 use area protection standard 561 (~~January, 2011~~April, 2014).

18 (5) (a) The system complies with applicable design, construction, and maintenance  
19 standards under this subchapter and NRCS technical guide heavy use area protection standard  
20 561 (~~January, 2011~~April, 2014).

21 **SECTION 59.** ATCP 50.65 (3) (a) 1. and 2. are amended to read:

22 ATCP 50.65 (3) (a) 1. NRCS technical guide access road standard 560 (~~September,~~  
23 ~~2010~~January, 2014).

1           2. NRCS technical guide streambank and shoreline protection standard 580 (~~November,~~  
2 ~~2009~~August, 2013).

3           **SECTION 60.** ATCP 50.66 (3) (a) 1., 2. and 3. are amended to read:

4           ATCP 50.66 (3) (a) 1. NRCS technical guide animal trails and walkways standard 575  
5 (~~November, 2012~~January, 2014).

6           2. NRCS technical guide streambank and shoreline protection standard 580 (~~November,~~  
7 ~~2009~~August, 2013).

8           3. NRCS technical guide fence standard 382 (~~September, 2010~~January, 2014).

9           **SECTION 61.** ATCP 50.68 (4) (a) is amended to read:

10          ATCP 50.68 (4) (a) The cropland cover meets NRCS technical guide cover crop standard  
11 340 (~~February, 2012~~January, 2014).

12          **SECTION 62.** ATCP 50.69 (4) (a) 2. is amended to read:

13          ATCP 50.69 (4) (a) 2. NRCS technical guide fence standard 382 (~~September,~~  
14 ~~2010~~January, 2014).

15          **SECTION 63.** ATCP 50.70 (4) (b) 3., 7. and 8. are amended to read:

16          ATCP 50.70 (4) (b) 3. NRCS technical guide fence standard 382 (~~September,~~  
17 ~~2010~~January, 2014).

18          7. NRCS technical guide subsurface drain standard 606 (~~October, 2012~~March, 2014).

19          8. NRCS technical guide underground outlet standard 620 (~~January, 2011~~March, 2014).

20          **SECTION 64.** ATCP 50.705 (3) (d) and (5) (a) 1., 2. and 3. are amended to read:

21          ATCP 50.705 (3) (d) A non-permanent storage area allowed under NRCS technical guide  
22 waste treatment standard 629 (~~March, 2013~~January, 2014).

1 (5) (a) 1. NRCS technical guide waste storage facility standard 313 (~~June, 2013~~January,  
2 2014).

3 2. NRCS technical guide waste treatment standard 629 (~~March, 2013~~January, 2014).

4 3. NRCS technical guide waste transfer standard 634 (~~September, 2012~~January, 2014).

5 **SECTION 65.** ATCP 50.71 (3) (b) 1. is amended to read:

6 ATCP 50.71 (3) (b) 1. NRCS technical guide fence standard 382 (~~September,~~  
7 ~~2010~~January, 2014).

8 **SECTION 66.** ATCP 50.72 (3) (a) 2. is amended to read:

9 ATCP 50.72 (3) (a) 2. NRCS technical guide fence standard 382 (~~September,~~  
10 ~~2010~~January, 2014).

11 **SECTION 67.** ATCP 50.73 (3) (d) 2., 4., 10. and 11. are amended to read:

12 ATCP 50.73 (3) (d) 2. NRCS technical guide sediment basin standard 350 (~~December,~~  
13 ~~2010~~April, 2014).

14 4. NRCS technical guide fence standard 382 (~~September, 2010~~January, 2014).

15 10. NRCS technical guide subsurface drain standard 606 (~~October, 2012~~March, 2014).

16 11. NRCS technical guide underground outlet standard 620 (~~January, 2011~~March, 2014).

17 **SECTION 68.** ATCP 50.75 (4) (a) 1. is amended to read:

18 ATCP 50.75 (4) (a) 1. NRCS technical guide fence standard 382 (~~September,~~  
19 ~~2010~~January, 2014).

20 **SECTION 69.** ATCP 50.76 (5) (a) 1. and 6. are amended to read:

21 ATCP 50.76 (5) (a) 1. NRCS technical guide spring development standard 574 (~~June,~~  
22 ~~2008~~March, 2014).

23 6. NRCS technical guide heavy use area protection standard 561 (~~January, 2011~~April,  
24 2014).



1           **SECTION 70.** ATCP 50.77 (4) (a) 2., 3. and 4. are amended to read:  
2           ATCP 50.77 (4) (a) 2. NRCS technical guide waste treatment standard 629 (~~March,~~  
3 ~~2013~~January, 2014).  
4           3. NRCS technical guide waste storage facility standard 313 (~~June, 2013~~January, 2014).  
5           4. NRCS technical guide waste transfer standard 634 (~~September, 2012~~January, 2014).  
6           **SECTION 71.** ATCP 50.80 (3) (a) 4., 5. and 8. are amended to read:  
7           ATCP 50.80 (3) (a) 4. NRCS technical guide streambank and shoreline protection  
8 standard 580 (~~November, 2009~~August, 2013).  
9           5. NRCS technical guide heavy use area protection standard 561 (~~January, 2011~~April,  
10 2014).  
11          8. NRCS technical guide animal trails and walkways standard 575 (~~November,~~  
12 ~~2012~~January, 2014).  
13          **SECTION 72.** ATCP 50.83 (3) (a) 2. is amended to read:  
14          ATCP 50.83 (3) (a) 2. NRCS technical guide fence standard 382 (~~September,~~  
15 ~~2010~~January, 2014).  
16          **SECTION 73.** ATCP 50.85 (4) (a) 2. is amended to read:  
17          ATCP 50.85 (4) (a) 2. NRCS technical guide underground outlet standard 620 (~~January,~~  
18 ~~2011~~March, 2014).  
19          **SECTION 74.** ATCP 50.86 (4) (b) 2., 3., 4., 6. and 7. are amended to read:  
20          ATCP 50.86 (4) (b) 2. NRCS technical guide sediment basin standards 350 (~~December,~~  
21 ~~2010~~April, 2014).  
22          3. NRCS technical guide waste transfer standard 634 (~~September, 2012~~January, 2014).  
23          4. NRCS technical guide fence standard 382 (~~September, 2010~~January, 2014).

1           6. NRCS technical guide heavy use area protection standard 561 (~~January, 2011~~April,  
2 2014).

3           7. NRCS technical guide underground outlet standard 620 (~~January, 2011~~March, 2014).

4           **SECTION 75.** ATCP 50.87 (4) (a) 1. is amended to read:

5           ATCP 50.87 (4) (a) 1. NRCS technical guide karst sinkhole treatment standard ~~725~~527  
6 (December, 2010).

7           **SECTION 76.** ATCP 50.88 (3) (a) 2., 3. and 5. are amended to read:

8           ATCP 50.88 (3) (a) 2. NRCS technical guide fence standard 382 (~~September,~~  
9 ~~2010~~January, 2014).

10          3. NRCS technical guide streambank and shoreline protection standard 580 (~~November,~~  
11 ~~2009~~August, 2013).

12          5. NRCS technical guide heavy use area protection standard 561 (~~January, 2011~~April,  
13 2014).

14          **SECTION 77.** ATCP 50.885 (4) (a) 1., 2. and 3. are amended to read:

15          ATCP 50.885 (4) (a) 1. NRCS technical guide access road standard 560 (~~September,~~  
16 ~~2010~~January, 2014).

17          2. NRCS technical guide streambank and shoreline protection standard 580 (~~November,~~  
18 ~~2009~~August, 2013).

19          3. NRCS technical guide fence standard 382 (~~September, 2010~~January, 2014).

20          **SECTION 78.** ATCP 50.90 (3) (b) 1. and 2. are amended to read:

21          ATCP 50.90 (3) (b) 1. NRCS technical guide subsurface drain standard 606 (~~October,~~  
22 ~~2012~~March, 2014).

23          2. NRCS technical guide underground outlet standard 620 (~~January, 2011~~March, 2014).

1           **SECTION 79.** ATCP 50.91 (3) (b) 6. and 7. are amended to read:

2           ATCP 50.91 (3) (b) 6. NRCS technical guide subsurface drain standard 606 (~~October,~~  
3 ~~2012~~March, 2014).

4           7. NRCS technical guide underground outlet standard 620 (~~January, 2011~~March, 2014).

5           **SECTION 80.** ATCP 50.92 (3) (b) 1. and 2. are amended to read:

6           ATCP 50.92 (3) (b) 1. NRCS technical guide subsurface drain standard 606 (~~October,~~  
7 ~~2012~~March, 2014).

8           2. NRCS technical guide underground outlet standard 620 (~~January, 2011~~March, 2014).

9           **SECTION 81.** ATCP 50.93 (4) (a) 1. and 2. are amended to read:

10          ATCP 50.93 (4) (a) 1. NRCS technical guide waste transfer standard 634 (~~September,~~  
11 ~~2012~~January, 2014).

12          2. NRCS technical guide underground outlet standard 620 (~~January, 2011~~March, 2014).

13          **SECTION 82.** ATCP 50.94 (3) (a) 2. is amended to read:

14          ATCP 50.94 (3) (a) 2. NRCS technical guide fence standard 382 (~~September,~~  
15 ~~2010~~January, 2014).

16          **SECTION 83.** ATCP 50.95 (3) (a) 2. and 4. are amended to read:

17          ATCP 50.95 (3) (a) 2. NRCS technical guide fence standard 382 (~~September,~~  
18 ~~2010~~January, 2014).

19          4. NRCS technical guide underground outlet standard 620 (~~January, 2011~~March, 2014).

20          **SECTION 84.** ATCP 50.96 (3) (b) 2., 6. and 7. are amended to read:

21          ATCP 50.96 (3) (b) 2. NRCS technical guide fence standard 382 (~~September,~~  
22 ~~2010~~January, 2014).

23          6. NRCS technical guide subsurface drain standard 606 (~~October, 2012~~March, 2014).

24          7. NRCS technical guide underground outlet standard 620 (~~January, 2011~~March, 2014).

1           **SECTION 85.** ATCP 71.02 (5) (b) 3. and 4. are amended to read:

2           ATCP 71.02 (5) (b) 3. For a food warehouse that does not store potentially hazardous  
3 food and has fewer than 50,000 square feet of storage area, ~~\$150~~100.

4           4. For a food warehouse that does not store potentially hazardous food and has at least  
5 50,000 square feet of storage area, ~~\$300~~200.

6           **SECTION 86.** ATCP 90.01 (15m) and (Note) are created to read:

7           ATCP 90.01 (15m) “*NIST Handbook 133*” means *NIST Handbook 133* (2014 edition)  
8 published by the National Institute of Standards and Technology, United States department of  
9 commerce.

10           **Note:** Copies of *NIST Handbook 133*, Checking the Net Contents of Packaged Goods  
11 (2014 edition) are on file with the department and the legislative reference bureau.  
12 Copies may be obtained from the U.S. Government Printing Office, Stop SSOP,  
13 Washington, D.C. 20102-0001, website: [www.nist.gov](http://www.nist.gov).

14  
15           **SECTION 87.** ATCP 90.01 (26) is amended to read:

16           ATCP 90.01 (26) “Unreasonable shortage” means a shortage that exceeds the maximum  
17 allowable variation specified for a commodity in the ~~national institute of standards and~~  
18 ~~technology handbook 133, “Checking the Net Contents of Packaged Goods,” 2013 edition~~*NIST*  
19 *Handbook 133*.

20           **SECTION 88.** ATCP 90.08 (14) (a) 2. and (Note) are amended to read:

21           ATCP 90.08 (14) (a) 2. If fluid milk, fluid milk products, ice cream, or frozen desserts  
22 are measured by and packaged in measure containers as defined in the “Measure Container  
23 Code” of the ~~national institute of standards and technology handbook~~*NIST Handbook 44* (2014  
24 edition), the net quantity declaration need not comply with the location requirement under s.  
25 ATCP 90.07 (2).

1 **Note:** The “Measure Container Code” of the ~~national institute of standards and~~  
2 ~~technology handbook~~NIST Handbook 44 is on file with the department,~~the~~  
3 ~~secretary of state~~ and the legislative reference bureau.  
4

5 **SECTION 89.** ATCP 90.09 (2) (a) and (c) (Note) and (4) (a) are amended to read:

6 ATCP 90.09 (2) (a) The department or a municipal sealer may determine the net contents  
7 of packaged commodities in an inspection lot based on an enforcement sample collected from  
8 that inspection lot. The enforcement sample shall be collected, tested and analyzed according to  
9 applicable provisions of the ~~national institute of standards and technology handbook~~NIST  
10 Handbook 133, “Checking the Net Contents of Packaged Goods.” Unless otherwise specified by  
11 ~~handbook~~NIST Handbook 133, the inspection lot shall be determined according to par. (b).

12 (c) (Note)

13 **Note:** A copy of the ~~national institute of standards and technology handbook~~NIST  
14 Handbook 133, “Checking the Net Contents of Packaged Goods,” is on file with  
15 the department,~~the secretary of state~~ and the legislative reference bureau.  
16

17 (4) (a) If, in any enforcement sample under sub. (2) (a), the number of unreasonable  
18 shortages in individual packages exceeds the number specified for an enforcement sample of that  
19 size in the ~~national institute of standards and technology handbook~~NIST Handbook 133, the  
20 department or a municipal sealer shall issue an order prohibiting the sale of the entire inspection  
21 lot from which that enforcement sample is collected.

22 **SECTION 90.** ATCP 91.01 (4) and (Note) are amended to read:

23 ATCP 91.01 (4) “NIST Handbook 130” means NIST Handbook 130 (20132014 edition)  
24 published by the National Institute of Standards and Technology, United States department of  
25 commerce.

26 **Note:** Copies of NIST Handbook 130 (20132014 edition) are on file with the department  
27 and the legislative reference bureau. Copies may be obtained from the U.S.  
28 Government Printing Office, Stop SSOP, Washington, D.C. 20102-0001,  
29 ~~website~~ or at [www.nist.gov](http://www.nist.gov).

1  
2       **SECTION 91.** ATCP 92.01 (10d) is created to read:

3       ATCP 92.01 (10d) “NIST” means the national institute of standards and technology,  
4 United States department of commerce.

5       **SECTION 92.** ATCP 92.01 (10h) and (Note) are created to read:

6       ATCP 92.01 (10h) “*NIST Handbook 44*” means *NIST Handbook 44* (2014 edition)  
7 published by the National Institute of Standards and Technology, United States department of  
8 commerce.

9       **Note:** Copies of *NIST Handbook 44*, Specifications, Tolerances and Other Technical  
10 Requirements for Weighing and Measuring Devices (2014 edition) are on file  
11 with the department and the legislative reference bureau. Copies may be obtained  
12 from the U.S. Government Printing Office, Stop SSOP, Washington, D.C. 20102-  
13 0001, website: [www.nist.gov](http://www.nist.gov).

14  
15       **SECTION 93.** ATCP 92.01 (10p) and (Note) are created to read:

16       ATCP 92.01 (10p) “*NIST Handbook 130*” means *NIST Handbook 130* (2014 edition)  
17 published by the National Institute of Standards and Technology, United States department of  
18 commerce.

19       **Note:** Copies of *NIST Handbook 130*, Uniform Laws and Regulation in the Areas of  
20 Legal Metrology and Engine Fuel Quality (2014 edition) are on file with the  
21 department and the legislative reference bureau. Copies may be obtained from  
22 the U.S. Government Printing Office, Stop SSOP, Washington, D.C. 20102-0001,  
23 website: [www.nist.gov](http://www.nist.gov).

24  
25       **SECTION 94.** ATCP 92.01 (10t) and (Note) are created to read:

26       ATCP 92.01 (10t) “*NIST Handbook 133*” means *NIST Handbook 133* (2014 edition)  
27 published by the National Institute of Standards and Technology, United States department of  
28 commerce.

29       **Note:** Copies of *NIST Handbook 133*, Checking the Net Contents of Packaged Goods  
30 (2014 edition) are on file with the department and the legislative reference bureau.

1 Copies may be obtained from the U.S. Government Printing Office, Stop SSOP,  
2 Washington, D.C. 20102-0001, website: [www.nist.gov](http://www.nist.gov).

3  
4 **SECTION 95.** ATCP 92.02 (1) and (Note), (2) (a) and (3) (c) are amended to read:

5 ATCP 92.02 (1) Except as provided in this chapter, weighing and measuring devices  
6 shall comply with applicable specifications, tolerances and other technical requirements set forth  
7 in ~~the national institute of standards and technology handbook~~ NIST Handbook 44  
8 ~~(specifications, tolerances and other technical requirements for weighing and measuring~~  
9 ~~devices), 2013 edition.~~

10 **Note:** See s. 98.03 (2), Stats. The ~~2013~~2014 edition of the ~~National Institute of~~  
11 ~~Standards and Technology~~ NIST Handbook 44 (Specifications, Tolerances and  
12 Other Technical Requirements for Weighing and Measuring Devices) is on file  
13 with the department and the legislative reference bureau. Copies may be  
14 purchased from the U.S. Government Printing Office, Superintendent of  
15 Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954. Excerpts can be  
16 viewed at <http://www.nist.gov/index.html>.

17  
18 (2) (a) The chief of the office of weights and measures of the ~~national institute of~~  
19 ~~standards and technology~~ NIST.

20 (3) (c) A commercial weighing or measuring device for which neither the ~~national~~  
21 ~~institute of standards and technology~~ NIST nor the national conference of weights and measures  
22 has yet adopted testing and certification procedures, provided that the department authorizes the  
23 sale and use of that device in this state. A person seeking department authorization shall apply to  
24 the department in writing. The application shall include relevant engineering and use  
25 specifications for the device, and shall document that neither the ~~national institute of standards~~  
26 ~~and technology~~ NIST nor the national conference on weights and measures has yet adopted  
27 testing and certification procedures for that device. The department shall grant or deny  
28 authorization within 30 days after the department receives a complete application, including any  
29 supplementary information requested by the department.

1           **SECTION 96.** ATCP 92.06 (1) (a) and (b), (2) and (3) are amended to read:

2           ATCP 92.06 (1) (a) ~~The national institute of standards and technology handbook 44~~  
3 ~~(specifications, tolerances, and other technical requirements for weighing and measuring~~  
4 ~~devices), 2013 edition~~NIST Handbook 44.

5           (b) ~~The national institute of standards and technology handbook 133 (checking the net~~  
6 ~~contents of packaged goods), 2013 edition~~NIST Handbook 133.

7           (2) PRICE VERIFICATION SYSTEMS. Inspections of price verification systems shall comply  
8 with NIST Handbook 130, chapter V, section 7 ~~"test procedures" from the chapter titled~~  
9 ~~"examination procedure for price verification," national institute of standards and technology~~  
10 ~~handbook 130 (uniform laws and regulation in the areas of legal metrology and engine fuel~~  
11 ~~quality), 2013 edition.~~

12           (3) INSPECTION EQUIPMENT AND STANDARDS. The department, or a laboratory certified  
13 by the ~~national institute of standards and technology~~NIST, shall inspect, test, and approve testing  
14 equipment and standards used by inspectors. The department or certified laboratory shall  
15 inspect, test, and approve the equipment at least once every 2 years unless the department  
16 specifies a different time interval for specific equipment or standards.

17           **SECTION 97.** ATCP 92.22 (1) (b) and (Note) and (2) are amended to read:

18           ATCP 92.22 (1) (b) Comply with applicable requirements contained in the ~~national~~  
19 ~~institute of standards and technology handbook~~NIST Handbook 44 ~~(specifications, tolerances,~~  
20 ~~and other technical requirements for weighing and measuring devices), 2013 edition.~~

21           **Note:** ~~The national institute of standards and technology handbook~~NIST Handbook 44  
22 ~~(specifications, tolerances, and other technical requirements for weighing and~~  
23 ~~measuring devices) 2013~~2014 edition, is on file with the department and the  
24 legislative reference bureau. You may purchase copies of this handbook from the  
25 U.S. Government Printing Office, Superintendent of Document Sales, P.O. Box  
26 371954, Pittsburgh, PA 15250-7954.



1  
2 (2) TEST EQUIPMENT AND STANDARDS. The department, or a laboratory certified by the  
3 ~~national institute of standards and technology~~NIST, shall inspect, test, and approve testing  
4 equipment and standards used by weights and measures service companies. The department or  
5 certified laboratory shall inspect, test, and approve the equipment at least once every 2 years  
6 unless the department specifies a different time interval for specific equipment or standards.

7 **SECTION 98.** ATCP 92.40 (2) is amended to read:

8 ATCP 92.40 (2) The thermometer well shall be constructed so as to permit insertion of a  
9 ~~mercury in glass~~ Fahrenheit thermometer which has one-degree graduations, spaced at least 0.04  
10 inch apart.

11 **SECTION 99.** ATCP 94.120 (1m) is created to read:

12 ATCP 94.120 (1m) “ASTM” means the *2014 Annual Book of ASTM Standards*,  
13 published by ASTM International, an international, nonprofit, technical, scientific and  
14 educational society for the promotion of knowledge of engineering materials and the  
15 standardization of specifications and methods of testing.

16 **SECTION 100.** ATCP 94.200 (1) is amended to read:

17 ATCP 94.200 (1) The following standards of ASTM ~~International~~ are incorporated by  
18 reference into this chapter:

19 (a) ASTM D396-~~09a~~13c, ~~Standard Specification for Fuel Oils~~standard specification for  
20 fuel oils.

21 (b) ASTM D910-~~07a~~13a, ~~Standard Specification for Aviation Gasolines~~standard  
22 specification for aviation gasolines.

23 (c) ASTM D975-~~09b~~14, ~~Standard Specification for Diesel Fuel Oils~~standard  
24 specification for diesel fuel oils.

1 (d) ~~ASTM D1655-0913a, Standard Specification for Aviation Turbine Fuels~~standard  
2 specification for aviation turbine fuels.

3 (e) ~~ASTM D3699-0813b, Standard Specification for Kerosine~~standard specification for  
4 kerosine.

5 (f) ~~ASTM D4806-0913a, Standard Specification for Denatured Fuel Ethanol for~~  
6 ~~Blending with Gasolines for Use as Automotive Spark Ignition Engine Fuel~~standard  
7 specification for denatured fuel ethanol for blending with gasolines for use as automotive spark-  
8 ignition engine fuel.

9 (g) ~~ASTM D4814-04bS114, Standard Specification for Automotive Spark Ignition~~  
10 ~~Engine Fuel~~standard specification for automotive spark-ignition engine fuel.

11 (h) ~~ASTM D5798-0913a, Standard Specification for Fuel Ethanol (Ed75 Ed85) for~~  
12 ~~Automotive Spark Ignition Engines~~standard specification for ethanol fuel blends for flexible-fuel  
13 for automotive spark-ignition engines.

14 (i) ~~ASTM D6227-04a14, Standard Specification for Grade 82 Unleaded Aviation~~  
15 ~~Gasoline~~standard specification for unleaded aviation gasoline containing a non-hydrocarbon  
16 component.

17 (j) ~~ASTM D6751-09a12, Standard Specification for Biodiesel Fuel Blend Stock (B100)~~  
18 ~~for Middle Distillate Fuels~~standard specification for biodiesel fuel blend stock (B100) for middle  
19 distillate fuels.

20 (k) ~~ASTM D7467-09a13, Standard Specification for Diesel Fuel Oil, Biodiesel Blend~~  
21 ~~(B6 to B20)~~standard specification for diesel fuel oil, biodiesel blend (B6 to B20).

22 (L) ~~ASTM D7547-0914, Standard Specification for Unleaded Aviation~~  
23 ~~Gasoline~~standard specification for hydrocarbon unleaded aviation gasoline.

1           **SECTION 101.** ATCP 105.005 (2) is amended to read:

2           ATCP 105.005 (2) MANUFACTURERS AND PRODUCERS. In order to determine the selling  
3 price to its own retail customers, a manufacturer or producer of cigarettes and other tobacco  
4 products, fermented malt beverages, intoxicating liquor or wine ~~fuel~~ who acts as both a  
5 wholesaler and a retailer shall use its selling price to other retailers plus the wholesaler markup  
6 compounded with the retailer markup.

7           **SECTION 102.** ATCP 123.12 (1) (intro.) and (a) are amended to read:

8           ATCP 123.12 (1) This subchapter does not apply to any ~~of the following:~~

9           ~~(a) Any~~ activity, including any notice to a consumer of a subscription change, that is  
10 specifically authorized under ss. ~~196.207, 196.20, 196.204~~ or 196.499 (4), Stats., or under a rule  
11 or order issued by the state of Wisconsin public service commission.

12           **SECTION 103.** ATCP 123.12 (1) (b) is repealed.

13           **SECTION 104.** ATCP 127.80 (2) (Note) is repealed.

14           **SECTION 105.** ATCP 161.43 (3) is amended to read:

15           ATCP 161.43 (3) MATCHING CONTRIBUTIONS. The recipient of a grant award under s.  
16 ATCP 161.42 shall make a matching contribution to the grant project. The matching  
17 contribution shall be equal to at least ~~33%~~ of the grant award. A matching contribution may  
18 include the reasonable value of the grant recipient's direct contribution of capital, land, labor,  
19 equipment or cash to the grant project. A matching contribution may include grant funds from  
20 sources other than the department.

21           **SECTION 106. EFFECTIVE DATE:** This rule takes effect on the first day of the month  
22 following publication in the Wisconsin administrative register, as provided in s. 227.22 (2)  
23 (intro.), Stats.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By \_\_\_\_\_  
Ben Brancel, Secretary