



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary Randy Romanski

Report From Agency

DATE: November 7, 2023

TO: The Honorable Chris Kapenga
President, Wisconsin State Senate
Room 220 South, State Capitol
PO Box 7882
Madison, WI 53707-7882

The Honorable Robin Vos
Speaker, Wisconsin State Assembly
Room 217 West, State Capitol
PO Box 8953
Madison, WI 53708-8953

FROM: Randy Romanski, Secretary
Department of Agriculture, Trade and Consumer Protection

SUBJECT: Clearinghouse Rule 23-024
Final Draft Rule regarding ATCP 50 relating to Soil and Water Resource Management Program

Proposed Rule

The proposed rule is attached.

Reference to Applicable Forms

There are no applicable forms.

Fiscal Estimate and EIA

The fiscal estimate and EIA are attached.

Detailed Statement Explaining the Basis and purpose of the Proposed Rule, Including How the Proposed Rule Advances Relevant Statutory Goals or Purposes

The purpose of the proposed rule is to review portions of chapter ATCP 50 with regard to performance standard updates, cost-sharing eligibility updates, and conservation practice updates. Presently, ch.

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ATCP 50 does not include the current Silurian bedrock agricultural performance standards, the cost-share language and rates are outdated, and conservation practices within the rule are outdated and incomplete. The proposed rule implements the Silurian bedrock agricultural performance standard promulgated in 2018 by the Wisconsin Department of Natural Resources (DNR) in s. NR 151.075, Wis. Admin. Code, as authorized under s. 281.16(3), Wis. Stats. The proposed rule updates, simplifies, supplements, and clarifies existing rule provisions related to implementing agricultural performance standards, soil and water conservation on farms, county soil and water programs, grants to counties and cost-sharing for landowners. Additional rule provisions established standards for soil and water professionals and the standards for cost-shared practices. These proposed rule changes will bring the agency rules into compliance with current statutes and practices.

Summary of Public Comments and the Department's Responses, Explanation of Modifications to Proposed Rules Prompted by Public Comments

Stakeholders representing county land conservation committees and departments, industry, and environmental non-governmental organizations were consulted and engaged throughout the ATCP 50 rulemaking process. Eight publicly noticed meetings took place from January 2022 through January 2023. The meetings were open to all interested individuals. The discussion at these meetings guided development of draft rule language.

Two public hearings on the rule draft were held in June 2023. The department received comments from representatives of 13 groups. The comments were a combination of support for specific provisions in the draft rule, as well as comments requesting revision or removal of provisions in the proposed rule. Many comments sought clarity in the rule language. Changes to the rule language were made to improve understanding through clear language. A few comments led to more substantive changes to rule language. These changes removed language to allow local government to add contract terms. This change removes uncertainty for the landowner and farmer. The updated language related to the technical standard development process was adjusted to clarify that future standards must go through rule-making before incorporation into ATCP 50. Additional changes reverted to existing language around required cost-share. Cost-sharing for cover crops reverted back to a flat rate, with the addition of a second rate for multi-species cover crop mixes.

Individual responses were sent to each entity that submitted comments. The responses addressed each comment and Department action relevant to the proposed rule language.

Preliminary Public Hearing and Comment Period on the Statement of Scope

The department held a preliminary public hearing on the statement of scope on September 30, 2021. No formal comments were submitted by the October 7, 2021 deadline.

Comment Period on the Economic Impact Analysis

The Department posted the Economic Impact Analysis of the proposed changes to ATCP 50 on our website on March 2, 2023. No comments were received during the 30-day comment period.

Commented [ATP1]: Wasn't it 30 days?

Public Hearing and Comment Period on the Preliminary Rule Draft

The Department held two public hearings on the draft rule package on June 13 and June 14, 2023 in Chilton and Madison, respectively. A virtual participation option was also available via Zoom for the Madison hearing. The Department accepted written comments from Iowa County, InDepth Agronomy, Dane County, the Dairy Business Alliance, the Wisconsin Land and Water Conservation Association, and the Wisconsin Potato and Vegetable Growers Association. The Wisconsin Wetland Association provided both oral comments and written comments. Joint comments were submitted to the Department from Clean Wisconsin and River Alliance. A separate set of joint comments were submitted from the Wisconsin Association of Professional Agricultural Consultants, the Wisconsin Farm Bureau Federation, and the Wisconsin Corn Growers. All comments were received by the June 23, 2023 comment deadline.

Response to Legislative Council Staff Recommendations

The Department modified the rule draft to address all Clearinghouse comments.

Report from the SBRRB and Final Regulatory Flexibility Analysis

The Small Business Regulatory Review Board did not issue a report on this rule. The Final Regulatory Flexibility Analysis is attached.