

STATEMENT OF SCOPE

Department of Agriculture, Trade and Consumer Protection

Rule No.: ATCP 52

Relating to: Creating a commercial nitrogen optimization pilot program

Rule Type: Emergency

1. Finding/nature of emergency (Emergency Rule only):

Wisconsin statute s. [92.14 \(16\)](#), Stats. authorizes the Department of Agriculture, Trade, and Consumer Protection (“department”) to award grants as part of the commercial nitrogen optimization pilot program. Under s. [92.14 \(16\) \(g\)](#), Stats., the department shall, using the procedure under s. [227.24](#), Stats., promulgate rules to implement s. [92.14 \(16\)](#), Stats. An administrative rule is needed in order to administer this program and award grants from the appropriation in s. [20.115\(7\) \(qf\)](#), Stats. for this program in Fiscal Year 2024-2025.

2. Detailed description of the objective of the proposed rule:

The department proposes to amend ATCP 52 to create a commercial nitrogen optimization pilot program. Under the program, an agricultural producer may apply for a grant to implement a project, for at least two growing seasons, that optimizes the application of commercial nitrogen.

An agricultural producer receiving a grant must collaborate with a University of Wisconsin System (UWS) institution, which would monitor the grant project on-site. The UWS institution may also receive a grant to implement that monitoring. The total grant to an agricultural producer and a collaborating UWS institution may not exceed \$50,000. Of that amount, up to 20 percent may be awarded to the UWS institution.

The following program requirements are included in statute: (1) collaborate with the agricultural producer and the University of Wisconsin System institution; (2) select agricultural producers located in different parts of the state and for projects in areas that have different soil types or geologic characteristics; (3) prioritize projects that are innovative and not currently funded by other state or federal programs; and (4) prioritize agricultural producers that plan to implement projects for longer periods.

The department will consider rule provisions needed to implement the above statutory requirements and the criteria that will be used to prioritize and score applications. Additionally, the department will consider rule provisions that establish the application and award process, identify eligible and ineligible activities and costs, and establish contract and reporting requirements.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

ATCP 52 currently implements the producer-led watershed protection grants program created under s. [93.59](#), Stats. The proposed commercial nitrogen optimization pilot program would be a new program included in the rule.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section [92.14 \(16\)](#), Stats., authorizes the commercial nitrogen optimization pilot program, including who can be awarded the grant, mandating a partnership with a University of Wisconsin System institution, setting a maximum grant award, and establishing additional grant management information.

Section [92.14 \(16\)](#), Stats., Commercial nitrogen optimization pilot program. (a) In addition to any grants provided under sub. (3), the department shall award grants from the appropriation under s. [20.115 \(7\) \(qf\)](#), Stats., to agricultural producers and to University of Wisconsin System institutions as provided under this subsection.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :

The department estimates that it will take approximately 80 hours to develop this emergency rule. That calculation includes time required for investigation and analysis, drafting the emergency rule, preparing related documents, coordinating meetings, holding public hearings, and communicating with affected persons and groups. The department will use existing staff to develop this rule.

6. List with description of all entities that may be affected by the proposed rule :

- University of Wisconsin System institutions - applicants must collaborate with a UW System institution to receive funding.
- Farmers, Landowners and other Agricultural producers – they may apply for the nitrogen optimization grant program.
- Farm-Related Businesses that apply commercial nitrogen. Farm supply organizations, nutrient management planners, soil testing laboratories, agricultural engineering practitioners, agricultural engineers, construction contractors and others who provide goods and services to farmers and other landowners may be affected by the grant program depending on the scope of grants awarded.
- Users and Beneficiaries of Natural Resources - this grant program helps farmers implement new land and water conservation strategies to store more nutrients in soil, prevent pollutant leaching and runoff, and improve our knowledge about localized water quality.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

NA

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The department anticipates that the proposed rule will have no to minimal economic impact. It is not likely to have a significant economic impact on small businesses since the nitrogen optimization grant program would provide funds to producers. Participation in the pilot program is voluntary, and any costs to producers should be offset by the grant awards.

Contact Person: Alex Elias (608) 224-6338