

Clearinghouse Rule 23-024

THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION'S
PROPOSED ORDER TO ADOPT PERMANENT RULES

PROPOSED ORDER

The Wisconsin Department of Agriculture, Trade and Consumer Protection proposes an order *to repeal* ATCP 50.01 (24) (Note) and (25) (Note), 50.01 (31), 50.01 (37) (Note), Subch. II (Note), 50.04 (3) (c) (Note), 50.04 (3) (h) and (Note), 50.04 (4) (b) 2. d. (Note), 50.06 (2) (Note), 50.08 (1) (a) (Note), (b) (Note), and (2) and (Note), 50.08 (3) (c), (d) (Note), (4) (c) (Note), and (5) (a) (Note), ATCP 50.10 (1) (b) (Note), 50.12 (4) (b) (Note) and (5) (Note), 50.16 (3) (c) (Note), 50.16 (3) (d) (Note), (4) (a) (Note), (5) (c) (2) (Note), (5) (d) (Note), (6) (b) (3) (Note), and (6) (d) (Note), 50.18 (1) (b) (Note) (1) (c), 50.20 (Note), 50.24 (1) (Note), 50.26 (1) (Note), (2) (a) (Note), (2) (b) (Note), (3) (b) (Note), and (4) (Note), 50.28 (1) (c) 2. (Note), (1) (d) 3. (Note), (1) (e) (Note), (2) (a) (Note), and (2) (b) (1) (Note), 50.28 (3) (b) (Note) and (5) (a) 1. b. (Note), 50.28 (5) (a) 5. (Note), 50.30 (2) (a) (b) (c) (d) (e) (f) and (Note), 50.32 (1) (Note), (2) (c) (Note), (3) (a) (Note), and (5) (a) (Note), 50.32 (7) (c) and (7) (d) (Note), 50.32 (10) (Note) and (11) (b) (Note), 50.34 (1) (d) (Note) and (2) (b) (Note), 50.34 (4) (b) (Note), 50.34 (6) (a) 3. (Note) and 4. (Note), 50.36 (1) (Note) and (2) (Note), 50.40 (2) (d) (Note), (3) (Note), (9) (j) (Note), (9) (l) (Note), and (9) (o) (Note), 50.40 (11) (b) (4) and (Note), 50.40 (14) (d) (Note), 50.40 (16) (a) (Note), (b) (Note), and (c) (Note), 50.40 (17) (Note), (18) (Note), and (19), 50.42 (5) (Note), 50.46 (1) (a) 1. (Note) and (1) (b) (Note), 50.46 (2m) (b) (Note) and (3) (a) (Note), 50.46 (5) (a) 3. (Note) and (5) (b), 50.50 (1) (Note), 50.50 (7) (b) (Note), 50.50 (8) (c) (Note), 50.52 (1) (f) (Note) and (g) (Note), 50.56 (2) (c) (Note), (3) (b) 2. (Note 1), and (3) (b) 3. (Note), 50.56 (4) (c) (Note), 50.60 (2) (b) (Note), 50.61 (2) (Note), 50.61 (4) (c) (Note), 50.62 (3) (d) (Note), 50.62 (f) (Note), 50.64 (1) (v) (Note), 50.64 (5) (c) (Note), 50.68 (3), 50.705 (5) (b) (Note), 50.80 (1) (Note), 50.82 (2) (a) 2., 3., and 4., (b), and (3), 50.82 (4) (c) 2., 3., and 4., 50.83 (3) (a) 8., 50.84 (1) (b) and (4) (a) and (b), 50.88 (2) (c) (Note), 50.93 (4) (a) 2.; *to renumber* 50.84 (1) (am); *to renumber and*

amend; to amend ATCP 50.01 (2), 50.01 (4), 50.01 (15m), and (2m), 50.01 (27) and (Note) and (28), 50.01 (36), 50.04 (1), (2), and (3) (a), 50.04 (3) (dm) 1. and (Note), (3) (e), and (3) (f) (4) (Note), 50.04 (3) (i), 50.06 (1) (a) and (2), 50.08 (1), 50.08 (3) (b), 50.10 (2), 50.12 (2) (a), (b), (c), (d), (f), (g), (h), (i), (L), and (3) (a), 50.16 (1) (a), 50.16 (3) (d), 50.26 (1), 50.28 (2) (b) 2., 50.28 (5) (a) 2., ATCP 50.30 (2), 50.32 (7) (a), 50.32 (8) (a), (c) 1., and (d), 50.34 (1), 50.34 (3) and (4) (a) 1. and 2., 50.34 (5m), 50.34 (6) (a) and (a) 2. and 3., 50.34 (6) (b), (7) (a) 1., and (7) (b), 50.36 (3), Subchapter V (title), 50.40 (1), 50.40 (10) (b), 50.40 (17), 50.42 (title) and (1), 50.46 (1) (d) and (2), 50.46 (5) (a) 2., 50.46 (7) (c), 50.46 (8) (a), 50.46 (8) (c), (9) (c) 1., and (11) (b), 50.48 (1) (a), (2) (a) 4., (2) (c) (Note), (4) and (6), 50.50 (2) (d) 5. (Note), 50.52 (2) (c), 50.54 (1) (Note), 50.56 (3) (b) 4. And (4) (a), 50.56 (6), Subchapter VIII (title) and (Note), 50.61 (title) and (1), 50.61 (3), 50.62 (3) (d), 50.62 (5) (e) and (em) 1., 50.63 (5), 50.64 (1) (e), 50.64 (5) (a), 60.65 (3) (a) 1. and 2. and (Note), 50.66 (3) (a) 1., 2., and 3. and (Note), 50.67 (3) (a), (b), and (c), 50.68 (1), 50.68 (2), 50.68 (4), 50.69 (4) (a) 1., 2., 3., 4., 5., 6., and 7., 50.70 (1) and (4) (b) 1., 2., 3., 4., 5., 6., 7., 8., and 9., 50.705 (3) (d) and (5) (a) 1., 2., 3., 4., 5., 6., and 7., and (5) (a) 8. (Note), 50.71 (3) (b) 1., 2., 3., and 4., 50.72 (3) (a) 1., 2., 3., 4., 5., 6., and 7., 50.73 (3) (d) 1., 2., 3., 4., 5., 6., 7., 8., 9., 10., 11., and 12., 50.75 (4) (a) 1. and 2., 50.76 (5) (a) 1., 2., 3., 4., 6., and 7., 50.77 (4) (a) 1., 2., 3., 4., 5., 6., and 7., 50.78 (3) (a), 50.79 (3) (a) 1., 50.80 (2) and (2) (c) and (d), 50.80 (3) (a) 1., 2., 3., 4., 5., 6., and 8., 50.81 (5) (a), 50.82 (4) (c), 50.83 (3) (a) 1., 2., 3., 4., 5., 6., and 7., 50.83 (3) (a) 9., 50.84 (1) (a), 50.84 (4) and (5) (a) and (e), 50.85 (4) (a) 1. and 2., 50.86 (4) (b) 1., 2., 3., 4., 5., 6., and 7., 50.84 (4) (a) 1., 2., and 3., 50.88 (2) (a), 50.88 (3) (a) 1., 2., 3., 4., and 5., 50.885 (1) and (4) (a) 1., 2., 3., and 4., 50.89 (3) (b) 1. and 2. and (c), 50.90 (2), (3) (a) and (b) 1. and 2., 50.91 (3) (b) 1., 2., 3., 4., 5., 6., 7., and 8., 50.92 (3) (b) 1. and 2., 50.93 (1) and (4) (a), 50.94 (1) and (3) (a) 1., 2., 3., 4., and 5., 50.95 (3) (a) 1., 2., 3., and 4., 50.96 (3) (b) 1., 2., 3., 4., 5., 6., 7., and 8., 50.97 (3) (a), 50.98 (1), 50.98 (3) (a); **repeal and recreate** 50.08 (5) (b), 50.42 (2); **and to create** ATCP 50.01 (2p), 50.01 (10m), (10r), and 13(d), 50.01 (29s), 50.01 (32m) and (34m), 50.04 (4) (c), 50.04 (5), 50.16 (1) (e) and (2) (d), 50.28 (2) (b) 3., 50.32 (5) (am), 50.34 (5m) (e), 50.38, 50.40 (11) (b) (5), 50.40 (14) (e), 50.41, 50.46 (5) (c), 50.48 (6) (a), (b), and (c), 50.50 (7) (c), 50.618, 50.62 (f) 1. and 2., 50.64 (5) (d), 60.65 (3) (a) 3., 50.66 (3) (a) 4., 50.663, 50.668, 50.67 (3) (d) and (e), 50.68 (1) (d), 50.733,

50.738, 50.74, 50.785, 50.79 (3) (a) 1m., 50.80 (2) (g), 50.80 (3) (a) 10. and 11., 50.82 (2) (a) 1m., 50.84 (1) (a), 50.86 (4) (b) 9., 50.88 (1) (cg), (cr), and (em), 50.88 (3) (a) 6., 7., 8., and 9., 50.882, 50.925, 50.98 (2) (e), 50.98 (3) (a) 2.; *relating to* soil and water resource management and affecting small businesses.

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

This rule modifies ch. ATCP 50, Wis. Admin. Code, related to Soil and Water Resource Management Program. The department of agriculture, trade and consumer protection (department) administers a variety of programs under ch. 92, Stats.

Statutes Interpreted: ss. 71.57 to 71.61, 71.613 (3), 91.80 and 91.82, ch. 92, and s. 281.16, Stats.

Statutory Authority: ss. 91.82 (3), 92.05 (3) (c) and (k), 92.14 (8), 92.18 (1), and 281.16 (3) (b) (c) and (e), Stats.

Explanation of Agency Authority

Chapter 92, Stats., establishes the framework for the department to operate a statewide program that includes implementation of farm conservation practices, approval of county land and water resource management plans, administration of soil and water resource management grants, oversight of manure storage and other local regulations covering livestock operations, provision of training and engineering practitioner certification, and standards for cost-shared practices.

The Wisconsin department of natural resources (DNR) promulgated the Silurian bedrock agricultural performance standards in s. NR 151.075, Wis. Admin. Code, as authorized under s. 281.16 (3), Stats. in 2018. Under state law, DNR is given authority to establish the agricultural performance standards and prohibitions necessary to limit nonpoint sources of pollution. The department, in turn, is expressly charged with prescribing conservation practices to implement the performance standards and prohibitions established by DNR, s. 281.16 (3), Stats.

Related Statutes and Rules

Chapter 92, Stats., establishes the framework for the department to operate a statewide soil and water resource management program. This rule also implements the soil and water conservation requirements in subch. V of ch. 91, Stats. This rule is related to s. 281.16, Stats., and ch. NR 151.

Plain Language Analysis

Background

The existing provisions in ch. ATCP 50 establish farm conservation practices to meet agricultural performance standards established in ch. NR 151. The rule identifies the conservation practice standards available to implement farm conservation practices. The rule describes the requirements for county soil and water management programs and lays out eligibility and requirements for grants to support the county and provide financial assistance for landowners. The rule describes local regulations a county may adopt and defines the role of the department where applicable. The rule sets standards for certification and qualifications for soil and water professionals and establishes a role for the department in training these

professionals. The rule creates general standards for conservation practices for which financial assistance is available and a process to develop or revise the conservation practice standards or technical standards under this rule.

Rule Content

General

This rule does all the following:

- Makes language updates and changes, including corrections to outdated provisions.
- Updates and adds definitions to clarify the meaning of important terms.
- Updates provisions related to soil and water conservation on farms.
- Updates requirements for administration of the soil and water resource management grant program.
- Updates and clarifies the process for counties to receive grants from the department.
- Adds options for providing financial assistance to landowners.
- Updates and adds maximum rates of financial assistance for some cropping practices.
- Clarifies and updates requirements and eligibility related to engineering certification and nutrient management planning.
- Adds a process for development of technical standards.
- Updates conservation practices and adds new conservation practices.

Language updates

The proposed rule makes minor clarifying and corrective changes to the rule as well as typical, cosmetic changes that occur during rulemaking. These changes include updating weblinks and references, removal of gendered language and updates to reflect current language usage.

The rule removes most of the notes found throughout all subchapters of the rule. Where appropriate, the content of the note is incorporated into the rule.

Definitions and General Provisions

This rule now includes definitions for the following:

- Cost of compliance
- Financial assistance
- Incentive
- Land conservation committee
- Performance payments
- Technical standard
- Silurian bedrock

The following existing definitions are revised for clarity and, where appropriate, to incorporate existing notes into the definition.

- Conservation practice
- Contaminated runoff
- Cost-share grant
- Leachate
- NRCS technical guide
- Nutrient management plan

The definition of RUSLE 2 equation was removed.

Silurian Bedrock Agricultural Performance Standard and DATCP 01 Verification of Depth to Bedrock technical standard

In 2018, the DNR promulgated a targeted performance standard related to Silurian bedrock in ch. NR 151.075, designed to minimize the risk for pathogen delivery to groundwater. The performance standard applies within parts of 16 counties in the Silurian bedrock area. The performance standard sets forth manure spreading rates and practices for mechanical manure application that vary according to the soil depth and texture. The most restrictive practices apply to those limited areas of the highest risk for pathogen delivery. Less restrictive requirements apply in areas with 5 to 20 feet to bedrock.

The department is responsible for developing and disseminating technical standards to implement the agricultural performance standards and prohibitions. This rule adds Silurian bedrock as a farm conservation practice and describes the requirements farmers and landowners must meet to implement the performance standard. This rule adds DATCP 01 Verification of Depth to Bedrock Technical Standard as conservation practice. The Verification of Depth to Bedrock Technical Standard is a voluntary tool farmers and landowners can use to verify the depth to bedrock in fields prior to mechanical application of manure. This rule also allows counties to provide cost-share to use this technical standard and to update a nutrient management plan to comply with the Silurian bedrock performance standard. This rule establishes a delayed date of implementation.

Soil and Water Conservation on Farms

This subchapter of the rule details the conservation practices landowners shall implement if they engage in agricultural practices.

This rule updates the effective date of compliance with agricultural performance standards under ss. NR 151.02 to 151.08 from May 1, 2014 to June 1, 2018 to incorporate the Silurian bedrock performance standard, s. NR 151.075. This rule removes dates of delayed implementation that have passed.

The reference to bona fide offer of cost-sharing when cost-sharing is required was revised to use the language “cost of compliance” for clarity and consistency with statutory language. This rule clarifies the process to calculate the cost of maintenance when cost-sharing is required and eliminates the specific inclusion of mowing costs in costs of compliance.

The cost of compliance includes the cost of maintenance. The rule clarifies that maintenance costs shall be calculated to cover a standard maintenance period that is defined in the rule or specified in the contract. The rule clarifies exemptions to required cost-sharing by removing contour farming and strip cropping, which are one-time practices and costs, and are not cost-shared for multiple years. Pesticide management was removed as the practice is not related to implementation of the agricultural performance standards. Conservation crop rotation is added to the list of exemptions if cost-shared for 4 years.

County Soil and Water Program

This subchapter of the rule details requirements for county soil and water conservation programs. The rule details requirements for land and water resource management plans, annual reporting, annual grant applications, and accounting and recordkeeping. The rule describes requirements for adopting county ordinances and requirements related to the farmland preservation program.

This rule no longer specifically mentions the county land information and modernization program and instead requires coordination with other county departments more generally.

This rule updates and clarifies requirements for development of county land and water resource management plans. These updates delete repetitive language and updates language to request identification

of priority areas of resource concern in addition to identification of priority farms. The updates also simplify requirements for work planning and estimating needs to implement the plan. This rule provides recommendations for the scope of individuals to appoint or consult with as part of a local advisory committee when developing a plan.

This rule requires landowners who claim farmland preservation tax credits to comply with the Silurian bedrock performance standard beginning April 1, 2027, if applicable.

This rule simplifies annual reporting requirements by removing a provision that requires counties to submit their financial contribution toward staffing. This information is already collected through the staffing grant application process.

Grants to Counties

This subchapter of the rule details the process for counties and other project cooperators when applying for grants for staffing and grants for conservation practices for landowners. The subchapter describes the process the department uses to award grants through an annual allocation process.

This rule clarifies the process to apply for grants and establishes a timeline for the department to provide the application form to the county land conservation committees. This rule adds the requirement for the department to share a copy of the environmental assessment related to the allocation plan and incorporates into rule the requirements to allow additional time to review the allocation plan if material changes are made during the drafting of the allocation plan following initial review.

This rule updates the grant priorities list for the annual grant allocation plan by removing examples of state priorities. The list is not exhaustive list of what the priorities of the state shall and may be interpreted to imply that there are specific, individual farms that would meet these criteria as opposed to a category of possible priorities. In addition, the allocation plan application provides more detail about state priorities and s. ATCP 50.30 (3) (a-r) maintains a comprehensive list of other factors for consideration when determining priorities.

This rule updates provisions related to reimbursement requests for consistency with current practice and to eliminate redundancy with the contract. This rule includes language that the first, second, and subsequent staff may differ from those identified in the application to acknowledge that, with the two-year lag between application and funding awards, staff turnover may occur.

This rule is updated to allow counties to use grant funds awarded through the allocation process for financial assistance for conservation practices. "Financial assistance" may include cost-share, incentives, performance payments and other uses not prohibited by statute. This rule states that reimbursement for financial assistance requires documentation to show payment conditions are met.

Language updates include revisions to update "cost-share practice" to "conservation practice" and "cost-share funds" to "grant funds" to account for the expanded use of funds for financial assistance.

This rule clarifies that funds awarded for staffing are non-transferable.

Cost-Share Grants to Landowners

This subchapter of the rule details how a county land conservation committee may use grant funds awarded to the county under ss. ATCP 50.34 or 50.35 to provide financial assistance to landowners.

This rule updates the section from “Cost-share Grants to Landowners” to “Financial Assistance to Landowners” to add options to support landowners in implementing conservation practices. This rule creates a new section, s. ATCP 50.38, to outline the general requirements that apply when counties distribute any type of financial assistance to landowners. This rule creates section s. ATCP 50.41, to describe requirements for offering financial assistance to landowners in forms other than as cost-share.

This rule allows registered architects to certify practice compliance if the practice includes a roof structure.

This rule clarifies that cost-share funds can be used to record any contract authorized under this chapter.

This rule clarifies that the rule does not limit the use financial assistance from other non-state sources, including other sources that are authorized under state law but are not considered state funds.

This rule updates maximum rates to better reflect actual costs and updates the language around maximum rates to remove specific reference to “cost-share” to allow the rates to apply when any type of financial assistance offered under this subchapter. This rule clarifies that financial assistance from government sources cannot exceed 100% of the project costs.

This rule removes cover crop and conservation planting in riparian buffers from the maximum rate section for cropping practices and instead allows financial assistance associated with these practices to be provided at a 70% cost-share rate, or 90% in the case of economic hardship, or provided as an incentive payment. This rule removes field stripcropping as a specific cropping practice with a maximum rate and instead considers this cropping practice to fall under stripcropping. This rule allows for a maximum rate for a one-time update of a nutrient management plan to meet the Silurian bedrock performance standard. This rule establishes a delayed implementation for achieving compliance with the Silurian bedrock performance standard. This rule establishes a maximum rate for installing harvestable buffers.

Soil and Water Professionals

This subchapter of the rule establishes the requirements for certification as a conservation engineering practitioner, qualifications to become a qualified nutrient management planner, and certification requirements for soil and manure testing laboratories. The subchapter also describes the role of the department with respect to training for county staff.

This rule allows for architects to certify roof construction. This rule clarifies that department field engineers must consult with a person with appropriate certification levels to provide a job certification approval level at a level higher than their own. This rule removes language that requires certification levels to automatically match job approval authority under the federal system. This rule updates requirements to require nutrient management planners to provide reasonable documentation that a plan complies with the nutrient management standard. This rule also clarifies and specifies the records a qualified nutrient management planner shall keep and outlines minimum documentation requirements.

Standards for Cost-Shared Practices

This subchapter of the rule outlines the applicable standards for conservation practice implementation that are required when financial assistance is received.

This rule updates language to indicate that conservation practices for which financial assistance is received must meet the conservation practice standards or technical standards described in rule. This rule updates cost-shared practice to conservation practice. This rule updates the use of the phrase technical standard to conservation practice standard with respect to practices in the Natural Resources Conservation Service (NRCS) field office technical guide. NRCS no longer uses the phrase technical standard. DNR and the department still have technical standards.

This rule adds a new section to describe a process the department shall use to develop a new or revise an existing technical standard to implement the agricultural performance standards and prohibitions under s. 281.16 (3) (a), Stats.

This rule updates the effective date for NRCS conservation practice standards referenced in the subchapter developed or revised since the last rule revision.

This rule incorporates notes to clarify requirements for implementing practices under this section.

- With respect to manure storage system, require the landowner to submit to the county a completed nutrient management checklist to receive a cost-share payment for this practice and to submit an updated checklist for each year of the maintenance period.
- With respect to a barnyard runoff control system, require the system to comply with one or more of the practices contained in the rule.
- For access road and trails and walkways, require compliance with the section of the rule specific to stream crossing, if applicable.
- For contour farming, require maintenance of the contour farming system for each cropping season for which cost-sharing is provided

This rule updates and clarifies the conservation practice standards for cover crops to the current terminology, reflect the practice's application in an agricultural setting, and the practice's purpose for improved soil health, water quality, and management of excess nutrients.

This rule expands the use of a diversion to control runoff and prevent contamination.

This rule expands the eligible costs allowed under prescribed grazing.

This rule limits eligible costs under residue management to no-till, strip till or similar practices and eliminates ineligible costs.

This rule updates the definition section of roofs to include a definition of animal housing, refine the definition of roof and eliminate the definition of wall. The rule limits ineligible costs to those that pay for a roof over feed storage, machinery storage or animal housing unless otherwise considered eligible.

This rule expands the components allowed for inclusion under streambank or shoreline protection and allows the costs for lunkers as eligible costs for reimbursement through a cost-share grant as part of this practice.

This rule allows ford crossing to be considered a stream crossing.

This rule expands eligible costs for subsurface drains and expands the ability to cost-share the use of the practice as part of other systems including feed storage runoff control system or as part of a nitrate nitrogen or phosphorous removal system.

This rule expands the definition of a wastewater treatment strip to include use from feed storage areas.

This rule expands the definition of a wetland development to the creating or restoring hydrologic or other conditions suitable for wetland vegetation and/or other important wetland functions and to include the types of common practices to implement this conservation practice.

This rule adds conservation practices and a technical standard to Subchapter VIII for Standards for Practices Receiving Financial Assistance.

- Conservation crop rotation
- Conservation cover
- Habitat diversification
- Harvestable buffers
- Hydrologic restoration
- Nutrient treatment systems
- Stream restoration
- DATCP 01 Verification of depth to bedrock

The definition of these practices clarifies their use within an agricultural setting where the application may have additional natural resource benefits for water quality, soil health or other related resource concerns.

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

The NRCS has adopted conservation practice standards that receive financial assistance from NRCS. Current department rules incorporate many NRCS conservation practice standards by reference. In most cases, these standards apply only to conservation practices that receive financial assistance from department funds. Enforcement of the standards is generally contingent on cost-sharing, with some limited exceptions.

While NRCS sets national conservation practice standards, conservation practices standards vary, to some extent, among states. NRCS coordinates its Wisconsin standard-setting process with the department, DNR and others through the Standards Oversight Council (SOC). For purposes of Wisconsin's soil and water conservation program, the department may incorporate NRCS conservation practice standards as written or may modify the conservation practice standards as appropriate.

NRCS gives job approval authority to engineering practitioners who design, install or approve conservation practice standards that receive financial assistance from NRCS. The department certifies practitioners who perform similar functions under department rules. Although the two systems are separate, they have many similarities, and the federal and state agencies collaborate to ensure efficiencies and ensure the landowners who rely on technical services from engineering practitioners receive technical assistance.

The United States Department of Agriculture administers several 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. 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.

The department attempts to coordinate state programs for conservation funding with relevant federal programs whenever possible. As a result of confidentiality requirements, federal cost-sharing provided to landowners through federal programs cannot be publicly disclosed and it is difficult to account for what role, if any, these funds may play meeting state agricultural performance standards.

***Summary of Comments Received during Preliminary Comment Period
and at Public Hearing on Statement of Scope***

A preliminary public hearing on the scope statement for ch. ATCP 50 was held on September 30, 2021. No formal comments were submitted during the preliminary comment period.

Comparison with Rules in Adjacent States

A review of other states for requirements related to manure applications on shallow soils over bedrock found limited similarities with s. NR 151.075. There were similarities in technical standards and existing rules statewide that apply to timing of manure applications and setback distances to some direct conduits (wells, sinkholes).

Each state has a soil and water conservation program, and offer cost share grants, but Wisconsin is the only state that coordinates with land conservation departments within counties. Other states have conservation districts, which are established under state law. The goal of conservation districts and land conservation departments is to coordinate assistance from all available sources—public and private, local, state and federal—to develop locally-driven solutions to natural resources concerns.

Regardless of organization, the bulk of funding is acquired from NRCS. In Wisconsin in 2021, approximately \$51.4 million was spent from NRCS for conservation activities through the Environmental Quality Incentives Program (\$30.5 million), the Conservation Stewardship Program (\$18.1 million), and the Agricultural Conservation Easement Program (\$2.8 million). In contrast, in 2022, Wisconsin appropriated approximately \$9 to \$11 million for county conservation staff. Additionally, approximately \$6 million was available for cost-share to producers to install conservation practices with county assistance. Wisconsin is only state where a Farmland Preservation Program requires participants to comply to soil and water conservation standards.

Illinois

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.

The Illinois Department of Agriculture offers Sustainable Agriculture grants to organizations, governmental units, educational institutions, non-profit groups, and individuals to cost share a variety of conservation practices. Practices are funded at a 75% cost-share rate, but the list of eligible practices is much smaller than the number of practices in Wisconsin.

Iowa

Iowa nutrient management planning includes a nitrogen leaching index and, like Wisconsin, includes restrictions on manure applications near surface water, groundwater conduits, and frozen soil. Iowa requires 200 ft. setbacks from sinkholes and wells when manure is not incorporated and 0 ft. setback when manure is incorporated. There are no specific requirements for spreading manure over shallow bedrock soils in Iowa.

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.

The Iowa Department of Agriculture and Land Stewardship offers both cost-sharing and incentive payment programs. Cost-sharing usually cannot exceed 50%, and they have an active watershed program similar to Wisconsin's old priority watershed program. Iowa also offers a revolving loan fund to fund conservation activities.

Michigan

Michigan's Generally Accepted Agricultural Management Practices (GAAMP) provide general recommendations to keep manure within the root zone of plants. GAAMPs have no specific manure setback recommendations from direct conduits (wells, sinkholes) and no recommendations for spreading manure in shallow bedrock soils.

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.

The Michigan Department of Agriculture and Rural Development offers all 75 conservation districts base funding with the Michigan Agricultural Environmental Assurance Program (MAEAP). Cost-sharing is also available for MAEAP verification.

Minnesota

Minnesota has no specific requirements for manure applications on shallow soils over fractured bedrock. Minnesota recommends at least 2 ft. of soil between manure and fractured bedrock and avoid fall applications of manure (N loss).

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.

The Minnesota Department of Agriculture (MDA) offers grants via their Clean Water Fund, Agricultural Water Quality Certification Program (MAWQCP), and Revolving Loan Fund for Best Management Practices. The MDA received \$21.7 million from the Clean Water Fund in 2020-2021 and the legislature appropriated \$20.24 million of Clean Water Funds for the MDA in 2022-2023. The MDA is using Clean Water Fund dollars to support a variety of programs, projects, and activities.

Summary of Factual Data and Analytical Methodologies

After the DNR passed s. NR 151.075 in 2018, the department published DATCP 01 - Verification of Depth to Bedrock Technical Standard in February 2020. The technical standard was developed through the Standard Oversight Council using the council's standard development process.

To develop this rule, the department held multiple listening sessions and stakeholder meetings with a variety of stakeholders including farm groups, environmental groups, and government entities such as county land and water conservation departments and staff from other state agencies. The meetings allowed the department to gather input and incorporate that input into the rule.

Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis

The department has prepared a preliminary draft Economic Impact Analysis that includes cost estimates based on available cost data.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on Small Business

The department's draft Economic Impact Analysis includes information on the effect of the rule on small business. The department considered how the impact on small business could be reduced. The proposed rules allow flexibility for farmers and options for achieving compliance with the Silurian bedrock performance standards. Additional opportunities are created through an expanded use of grant funds for financial assistance and the addition of conservation practices available for financial assistance.

The Department's Regulatory Review Coordinator may be contacted by:

Email at Bradford.Steine1@wisconsin.gov

Telephone at (608) 224-5024

The Regulatory Flexibility Analysis is attached.

Department Contact Person

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Place Where Comments are to Be Submitted and Deadline for Submission:

Comments must be received on or before June 16, 2023 to be included in the record of rule-making proceedings. Submit comments:

By mail to:

Alex Elias

Division of Agricultural Resource Management

Department of Agriculture, Trade and Consumer Protection

P.O. Box 8911

Madison, WI 53708-8911

By e mail to: DATCPLANDWATER@wisconsin.gov

RULE TEXT

- 1 **SECTION 1.** ATCP 50.01 (2) and (2m) are amended to read:
- 2 ATCP 50.01 (2) "Conservation practice" means a facility or practice that is designed to prevent or reduce soil
- 3 erosion, prevent or reduce non- point source water pollution, or achieve or maintain compliance with soil and
- 4 water conservation standards. "Conservation practice" includes a nutrient management plan and DATCP 01
- 5 Verification of Depth to Bedrock.

6 **(2m)** “Contaminated runoff” means ~~drainage that has come through or across a feed storage or manure~~
7 ~~storage area runoff that comes into contact with feed or manure.~~ “Contaminated runoff” includes the liquid
8 and any sediment, manure, feed, or other material carried in the liquid. “Contaminated runoff” contains
9 lower concentrations than leachate from feed or manure.

10 ~~Note: “Contaminated runoff” contains lower concentrations of contaminants than leachate from feed or~~
11 ~~manure.~~

12 **SECTION 2.** ATCP 50.01 (2p) is created to read:

13 ATCP 50.01 **(2p)** “Cost of compliance” means the cost to install and maintain a required conservation
14 practice.

15 **SECTION 3.** ATCP 50.01 (4) is amended to read:

16 ATCP 50.01 **(4)** “Cost-share grant” means ~~a grant~~ financial assistance that reimburses a landowner for ~~all~~
17 ~~or~~ part of the cost to install or maintain a conservation practice identified in the grant.

18 **SECTION 4.** ATCP 50.01 (10m), (10r), and (13d) are created to read:

19 ATCP 50.01 **(10m)** “Financial Assistance” means funding in the form of a cost-share grant, incentives,
20 performance payments or other payments that are provided to a landowner to adopt or install conservation
21 practices.

22 **(10r)** “Incentive” means financial assistance in the form of a flat-rate payment or stipend made to a
23 landowner to install conservation practices.

24 **(13d)** “Land conservation committee” means a committee created by a county board that meets the
25 requirements in s. 92.06, Stats.

26 **SECTION 5.** ATCP 50.01 (15m) is amended to read:

27 ATCP 50.01 **(15m)** “Leachate” means the concentrated liquid which has percolated through, or drained
28 from, animal feed or manure storage areas. “Leachate” contains much higher concentrations of
29 contaminants than contaminated runoff.

30 ~~Note: “Leachate” contains much higher concentrations of contaminants than contaminated runoff.~~

31 **SECTION 6.** ATCP 50.01 (24) (Note) and (25) (Note) are repealed.

32 **SECTION 7.** ATCP 50.01 (27) and (Note) and (28) are amended to read:

33 ATCP 50.01 (27) “NRCS ~~technical guide~~ conservation practice standard” means the standard found in the
34 Wisconsin NRCS field office technical guide, unless otherwise specified.

35 **Note:** Copies of the NRCS ~~technical guide~~ conservation practice standards are on file with the department
36 and the legislative reference bureau. Copies of individual standards contained in the NRCS technical guide
37 may be obtained from a county land conservation department, an NRCS field office, ~~the national NRCS~~
38 ~~website at: <http://www.nrcs.usda.gov/>, or Wisconsin NRCS website at: <http://www.wi.nrcs.usda.gov/>, or the~~
39 national NRCS website at: <http://www.nrcs.usda.gov/>.

40 (28) “Nutrient management plan” means ~~any of the following:~~

41 (a) ~~A plan required under s. ATCP 50.04 (3) or 50.62 (5) (f).~~

42 (b) ~~A farm nutrient plan prepared or approved, for a landowner, by a qualified nutrient management planner.~~

43 **Note:** ~~A nutrient management plan must comply with s. ATCP 50.04 (3).~~ a farm nutrient plan written by a
44 qualified plan writer per s. ATCP 50.48 and meets the requirements specified under s. ATCP 50.04 (3) or
45 50.62(5)(f).

46 **SECTION 8.** ATCP 50.01 (29s) is created to read:

47 ATCP 50.01 (29s) “Performance payment” means financial assistance provided to landowners in return
48 for the landowner meeting certain conservation benchmarks. Performance payments can vary based on
49 the conservation practice or practices used and the estimated environmental benefits.

50 **SECTION 9.** ATCP 50.01 (31) is repealed.

51 **SECTION 10.** ATCP 50.01 (32m) and (34m) are created to read:

52 ATCP 50.01 (32m) “Silurian bedrock” means the area in Wisconsin where the bedrock consists of Silurian
53 dolomite with a depth to bedrock of 20 feet or less. This area comprises portions of the following counties:
54 Brown, Calumet, Dodge, Door, Fond du Lac, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie,

55 Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha. Areas where Silurian bedrock occurs
56 in Wisconsin can be identified by the most current NRCS, Wisconsin Geological Natural History Survey,
57 department of agriculture, trade and consumer protection, department of natural resources, county maps, or
58 infield bedrock verification methods.

59 **(34m)** “Technical standard” refers to standards for which the department or DNR is a custodian.

60 **SECTION 11.** ATCP 50.01 (36) is amended to read:

61 ATCP 50.01 **(36)** “T-value” means the maximum average annual rate of soil erosion for each soil type that
62 will permit a high level of crop productivity to be sustained economically and indefinitely. For most soils,
63 “T-value” is equivalent to 1 to 5 tons of soil loss per acre per year.

64 **SECTION 12.** ATCP 50.01 (37) (Note) is repealed.

65 **SECTION 13.** Subch. II (Note) is repealed.

66 **SECTION 14.** ATCP 50.04 (1), (2), and (3) (a) are amended to read:

67 ATCP 50.04 **(1) NONPOINT SOURCE POLLUTION CONTROL.** A landowner shall implement conservation
68 practices that achieve compliance with DNR performance standards under ss. NR 151.02 to 151.08, in
69 effect on ~~May 1, 2014~~ June 1, 2018. A nutrient management plan developed in accordance with sub. (3)
70 may be used to demonstrate compliance with ss. NR 151.04 and NR 151.075.

71 **Note:** Landowners who claim farmland preservation tax credits must comply with conservation standards
72 as required under s. 91.80, Stats.

73 **(2) SOIL EROSION CONTROL** A landowner shall manage ~~all fields including pastures, and related field~~
74 ~~practices, so that soil erosion rates on cropped and pastured soils do not exceed T value.~~ all lands where
75 crops or feed are grown, including pastures, so that sheet, rill, and wind erosion rates on cropped and
76 pastured soils do not exceed T-value. Sheet and rill erosion may be calculated using the RUSLE 2 equation
77 or equivalent. Wind erosion may be calculated using the NRCS Wind Erosion Prediction System (WEPS).

78 **Note:** ~~See s. 92.025 (1), Stats., and s. NR 151.02. Soil erosion includes erosion caused by wind or water.~~

79 ~~For most soils, “T value” is equivalent to 2 to 5 tons of soil loss per acre per year. Sheet and rill soil erosion~~

80 ~~from water is calculated according to the RUSLE 2 equation, published by NRCS. Wind erosion is~~
81 ~~calculated according to the NRCS Wind Erosion Prediction System (WEPS) model. Copies of RUSLE 2~~
82 and the NRCS WEPS model are on file with the department and the legislative reference bureau. Copies of
83 both models may also be obtained from the NRCS website at: <http://www.wi.nrcs.usda.gov/technical>.

84 **(3) NUTRIENT MANAGEMENT PLAN.** (a) A landowner shall have and follow an annual nutrient management
85 plan when applying nutrients to any field, including pastures, ~~after the date specified in par. (h).~~ A nutrient
86 management plan shall comply with this subsection.

87 **SECTION 15.** ATCP 50.04 (3) (c) (Note) is repealed.

88 **SECTION 16.** ATCP 50.04 (3) (dm) 1. and (Note), (e) and (f) are amended to read:

89 ATCP 50.04 **(3)** (dm) 1. Standard values specified in Nutrient Application Guidelines for Field, Vegetable
90 and Fruit Crops, UWEX publication A2809 referenced in the NRCS ~~technical guide~~ conservation practice
91 standard 590.

92 **Note:** The current 2012 version of UWEX pub. A2809 and subsequent editions are available at:
93 https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx and is also on file with the department and
94 the legislative fiscal bureau.

95 (e) The plan shall comply with the NRCS ~~technical guide~~ conservation practice standard 590 nutrient
96 management ~~standard 590~~ (December, 2015) except for sections IV. D., IV. E., and V., and shall also
97 comply with the *Wisconsin Conservation Planning Technical Note WI-1* (February, 2016).

98 **Note:** The NRCS ~~technical guide~~ conservation practice standard 590 (December, 2015) and the companion
99 document *Wisconsin Conservation Planning Technical Note WI-1* (February, 2016) are on file with the
100 department and the legislative reference bureau. Copies are available from a county land conservation
101 department, a NRCS field office, the national NRCS website at: <http://www.nrcs.usda.gov>, the Wisconsin
102 NRCS website at: www.wi.nrcs.usda.gov, or the department website at:
103 https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx. ~~The NRCS technical guide standard 590~~
104 ~~(December, 2015) includes the options for the development of a P management strategy when manure or~~

105 ~~organic by products are applied during the crop rotation using either the Phosphorus Index (PI) or Soil Test~~
106 ~~Phosphorus Management Strategy. A person may obtain a checklist to gather information for a nutrient~~
107 ~~management plan~~ Components of a nutrient management plan are summarized on a checklist. An example
108 nutrient management checklist is available at ~~by visiting~~ the department's website at:
109 https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx.

110 (f) The plan may not recommend nutrient applications that exceed the amounts required to achieve
111 applicable crop fertility levels recommended by the University of Wisconsin–Extension in the 2012 edition
112 of *Nutrient Application Guidelines for Field, Vegetable and Fruit Crops*, UWEX publication A2809, or in
113 the latest edition of that publication if preferred by the landowner, unless the nutrient management planner
114 can show that one or more of the following circumstances justifies the recommended application:

115 1. A soil or tissue test reveals a specific nutrient deficiency. For supplemental in-season nitrogen
116 applications, a planner shall follow steps outlined in NRCS conservation practice standard 590 nutrient
117 management (December 2015).

118 **Note:** Environmental conditions can make it challenging to assess nutrient deficiencies. In-field scouting
119 is strongly recommended to verify the nutrient deficiency is not a result of pest or disease pressure, and that
120 an additional nutrient application will resolve the observed deficiency.

121 2. Excess nutrients are the result of an unforeseen change in the type of crop planted.

122 3. Excess nutrients are the result of manure applications made in the last year prior to the implementation
123 of the nutrient management plan.

124 4. Other special agronomic conditions documented by the planner. A planner who wishes to justify higher
125 applications shall include credible information to show that the higher applications will not materially
126 increase environmental damage by following criteria outlined in the Wisconsin Conservation Planning
127 Technical Note WI-1, Appendix 3 Guidelines for Adaptive Nutrient Management (February 2016).

128 **Note:** The ~~2006 and subsequent editions~~ 2012 edition of the UWEX publication A2809 ~~are available from~~
129 ~~a county extension agent. The 2006 and 2012 editions are also~~ is on file with the department and the
130 legislative reference bureau. The latest edition of A2809 is available from the UWEX website at:

131 <http://learningstore.uwex.edu>. Copies are also available from the department website at:
132 https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx.

133 **SECTION 17.** 50.04 (3) (h) and (Note) are repealed.

134 **SECTION 18.** ATCP 50.04 (3) (i) is amended to read:

135 ATCP 50.04 (3) (i) A landowner is rebuttably presumed to comply with this section if the landowner
136 complies with a nutrient management plan that is prepared or approved by a nutrient management planner;
137 ~~other than the farmer,~~ who is qualified under s. ATCP 50.48.

138 **SECTION 19.** ATCP 50.04 (4) (b) 2. d. (Note) is repealed.

139 **SECTION 20.** ATCP 50.04 (4) (c) is created to read:

140 ATCP 50.04 (4)(c) Determinations regarding compliance with this standard may be appealed as authorized
141 under s. 227.42, Stats., or other provisions of law.

142 **SECTION 21.** ATCP 50.04 (5) is created to read:

143 ATCP 50.04 (5) SILURIAN BEDROCK.

144 (a) A landowner shall manage cropland to achieve compliance with DNR performance standard for Silurian
145 Bedrock under s. NR 151.075.

146 (b) A landowner is not required to comply with this section unless all of the following conditions are met:

- 147 1. They mechanically apply manure to cropland or pasture areas.
148 2. The cropland is located in an area of Silurian bedrock defined under s. NR 151.015 (17).

149 (c) A landowner is presumed to comply with this section if all of the following apply:

- 150 1. The landowner complies with a nutrient management plan that meets the following:
151 a. The nutrient management plan is written in accordance with s. ATCP 50.04 (3).
152 b. The nutrient management plan incorporates the restrictions and prohibitions set forth in s. NR151.075

153 where applicable.

154 2. The landowner uses any of the following, or any combination of the following:

155 a. Silurian bedrock maps available from any of the following:

156 1. NRCS soil survey maps.

157 2. Maps developed by the department of agriculture, trade and consumer protection and/or department of
158 natural resources.

159 3. Maps available from the University of Wisconsin department of soil science.

160 4. Maps available from the Wisconsin geological and natural history survey.

161 b. In-field bedrock verification conducted in compliance with s. ATCP 50.925

162 c. The landowner uses weather and precipitation predictions to determine the appropriate timing of manure
163 application.

164 **Note:** The Runoff Risk Advisory Forecast shows the highest risk within the forecast period of 3 days, except
165 when frozen soils or snow are present when this forecast period is increased to 10 days, found at
166 <https://www.manureadvisorysystem.wi.gov/runoffrisk/index>.

167 (d) A landowner under paragraph (b) has until April 1, 2027, to comply with paragraph (a).

168 **SECTION 22.** ATCP 50.06 (1) (a) and (2) are amended to read:

169 ATCP 50.06 (1) (a) Conservation practices identified in subch. VIII or the NRCS field office technical
170 guide.

171 (2) FUNDED PRACTICES. Conservation practices for which a landowner receives ~~a cost-share grant~~ financial
172 assistance under this chapter shall comply with subch. VIII.

173 **SECTION 23.** ATCP 50.06 (2) (Note) is repealed.

174 **SECTION 24.** ATCP 50.08 (1) is amended to read:

175 ATCP 50.08 (1) GENERAL A landowner engaged in agricultural practices in this state is not required to do
176 any of the following, under s. ATCP 50.04, unless the landowner receives a ~~bona fide offer of cost-sharing~~:

177 written offer of cost-sharing for at least 70% of the cost of compliance, or from 70% to 90% of the cost of
178 compliance if there is an economic hardship under s. ATCP 50.42 (4):

179 **SECTION 25.** ATCP 50.08 (1) (a) (Note), (b) (Note), and (2) and (Note) are repealed.

180 **SECTION 26.** ATCP 50.08 (3) (b) is amended to read:

181 ATCP 50.08 (3) (b) The reasonable value of necessary labor, equipment, and supplies provided by the
182 landowner in the installation and maintenance of the conservation practice for the period required under
183 subch. VIII or specified in the contract. This does not include normal operating routines such as clean-outs
184 of barnyards, storage facilities, and gutters.

185 **SECTION 26.** ATCP 50.08 (3) (c), (d) (Note), (4) (c) (Note), and (5) (a) (Note) are repealed.

186 **SECTION 27.** ATCP 50.08 (5) (b) is repealed and recreated to read:

187 ATCP 50.08 (5) (b) The following conservation practices if those practices have already been cost-shared
188 for 4 years:

- 189 1. Cover crops as defined in s. ATCP 50.68 (1).
- 190 2. Nutrient management as defined in s. ATCP 50.78 (1).
- 191 3. Residue management as defined in s. ATCP 50.82 (1).
- 192 4. Conservation crop rotation as defined in s. ATCP.668 (1).

193 **SECTION 28.** ATCP 50.10 (1) (b) (Note) is repealed.

194 **SECTION 29.** ATCP 50.10 (2) is amended to read:

195 ATCP 50.10 (2) COORDINATION. A county land conservation committee shall, to the extent practicable,
196 coordinate the program elements under sub. (1) with each other and with ~~all of the following:~~

197 ~~(a) The county's land information and modernization program under ss. 16.967 and 59.72 (3), Stats.~~

198 ~~(b) The the related activities of NRCS, state agencies, other county departments and other governmental~~
199 ~~entities in that county.~~

200 **SECTION 30.** ATCP 50.12 (2) (a), (b), (c), (d), (f), (g), (h), (i), (L), and (3) (a) are amended to read:

201 ATCP 50.12 (2) (a) Water quality and soil erosion conditions throughout the county, including
202 identification of the causes of water quality impairment and pollutant sources. The plan shall include water
203 quality assessments for each watershed in the county if available from DNR, if any.

204 (b) State and local regulations that the county will use to implement the county plan. ~~The department may~~
205 ~~require the county to provide copies of relevant local regulations, as necessary, and may comment on those~~
206 ~~regulations.~~

207 **Note:** ~~See state rules under chs. ATCP 48, ATCP 50, NR 151, and NR 243.~~

208 (c) Water quality objectives for each watershed, including any available pollutant load reduction targets,
209 consistent with conditions identified in par. (a) if available from DNR. ~~The county shall consult with DNR~~
210 ~~to determine water quality objectives and to identify pollutant load reduction targets.~~

211 (d) Key water quality and soil erosion problem areas consistent with conditions identified in par (a). ~~The~~
212 ~~county land conservation committee shall identify key water quality problem areas in consultation with~~
213 ~~DNR.~~

214 (f) A plan to identify priority farms and priority areas of resource concern in the county.

215 **Note:** ~~The identification of priority farms may vary between counties, depending on local conditions,~~
216 ~~strategies, and information. A county should focus on identifying or working with the following farms, or~~
217 ~~other categories of farms that the county identifies in its plan:~~

218 ~~•Farms subject to a DNR notice of intent under s. 281.20, Stats., or notice of discharge under ch. 283, Stats.~~

219 ~~•Farms located in watersheds draining to waters that DNR has listed pursuant to 33 USC 1313. This is also~~
220 ~~known as the "303(d) list of impaired waters."~~

221 ~~•Farms that have large numbers of livestock, or significant problems with manure management.~~

222 ~~•Farms making clearly excessive nutrient applications.~~

223 ~~•Farms with clearly excessive rates of cropland erosion.~~

224 (g) County strategies to encourage voluntary implementation of conservation practices under s. ATCP
225 50.04. A county shall ~~estimate the amount of~~ consider and include information and education, cost-sharing
226 and other financial assistance, and technical assistance needed to implement its plan.

227 (h) Compliance procedures, including notice, hearing, enforcement, and appeal procedures, that will apply
228 if the county takes action against a landowner for failure to implement conservation practices required under
229 this chapter, ch. NR 151, or related local regulations.

230 **Note:** ~~See ss. ATCP 50.04 to 50.08 and subch. VII.~~

231 (i) The county's multi-year workplan to achieve the objectives identified in par. (c) to implement the farm
232 conservation practices under s. ATCP 50.04, and achieve compliance with performance standards under
233 ch. NR 151. The plan shall identify priorities, benchmarks for performance, and expected costs, ~~including~~
234 ~~an estimate of costs to implement conservation practices to achieve the objectives identified in par. (c).~~

235 **Note:** ~~The county workplan under par. (i) should be based on a reasonable assessment of available funding~~
236 ~~and resources.~~

237 (L) How the county will coordinate its land and water conservation program with federal, state, and local
238 agencies.

239 **Note:** ~~The department and DNR will work with counties to develop more detailed guidelines and~~
240 ~~suggestions for county land and water resource management plans, but individual counties have some~~
241 ~~flexibility and discretion to propose plans that are appropriate for their local conditions.~~

242 **(3)** (a) Appoint and consult with a local advisory committee of interested persons that reflects a broad
243 spectrum of public interests and perspectives. The committee could include affected farmers, landowners
244 and businesses, nongovernmental organizations, and federal, state, local and tribal officials, or other county
245 departments.

246 **Note:** ~~A local advisory committee should reflect a broad spectrum of public interests and perspectives. For~~
247 ~~example, it could include:~~

248 ~~•Affected farmers, businesses, and landowners.~~

249 ~~•Agricultural, business, environmental, civic, and recreational organizations.~~

250 ~~•Federal, state, local, and tribal officials.~~

251 ~~•The University of Wisconsin and other educational institutions.~~

252 **SECTION 31.** ATCP 50.12 (4) (b) (Note) and (5) (Note) are repealed.

253 **SECTION 32.** ATCP 50.16 (1) (a) is amended to read:

254 ATCP 50.16 (1) (a) Except as provided in par. (d), (e) and sub. (2), a landowner claiming farmland
255 preservation tax credits shall comply with the standards and practices in s. ATCP 50.04.

256 ~~**Note:** The soil and water conservation standards are promulgated by the department under ss. 92.05 (3) (e)~~

257 ~~and (k), 92.14 (8), and 281.16 (3) (b) and (c), Stats. See also s. 91.80, Stats. A county land conservation~~

258 ~~committee or its designee determines whether a landowner is in compliance with conservation standards.~~

259 ~~A determination of compliance is one component of the requirements a landowner must satisfy to claim a~~

260 ~~farmland preservation tax credit. Landowners are responsible to determine whether they meet all the~~

261 ~~eligibility requirements to claim the benefits of compliance.~~

262 **SECTION 33.** ATCP 50.16 (1) (e) and (2) (d) are created to read:

263 ATCP 50.16 (1) (e) A landowner claiming farmland preservation tax credits shall comply with the Silurian
264 bedrock performance standard in s. NR 151.075, where applicable, beginning on April 1, 2027.

265 (2) (d) Landowners who enter into, or modify, a farmland preservation agreement after April 1, 2027, shall

266 comply with the soil and water conservation standards in effect at the time the agreement was entered into

267 or modified, and shall be required, under the terms of that agreement, to comply with the Silurian bedrock

268 performance standard in s. NR 151.075, where applicable. Landowners who entered into, or were

269 successors of a farmland preservation agreement, signed or modified before April 1, 2027, who also claim

270 the farmland preservation tax credit under zoning shall comply with par. (e), sub. (1).

271 **SECTION 34.** ATCP 50.16 (3) (c) (Note) is repealed.

272 **SECTION 35.** ATCP 50.16 (3) (d) is amended to read:

273 ATCP 50.16 (3) (d) The land conservation committee approves the performance schedule, including the
274 required practices and the time allowed to achieve compliance. The land conservation committee may
275 establish shorter periods to achieve compliance ~~that~~ than the 5 year maximum allowed under this
276 subsection. A landowner is considered to be implementing ~~his or her~~ their performance schedule if the
277 landowner is making reasonable progress in installing the required practices and is taking other appropriate
278 actions in the time frame identified by the land conservation committee in the performance schedule to
279 achieve compliance.

280 **SECTION 36.** ATCP 50.16 (3) (d) (Note), (4) (a) (Note), (5) (c) (2) (Note), (5) (d) (Note), (6) (b) (3)
281 (Note), and (6) (d) (Note) are repealed.

282 **SECTION 37.** ATCP 50.18 (1) (b) (Note) and (1) (c) are repealed.

283 **SECTION 38.** ATCP 50.20 (Note) is repealed.

284 **SECTION 39.** ATCP 50.24 (1) (Note) is repealed.

285 **SECTION 40.** ATCP 50.26 (1) is amended to read:

286 ATCP 50.26 (1) ANNUAL APPLICATION. A county land conservation committee shall apply to the
287 department by April 15 of each year on a form provided by the department by January 31st of each year, to
288 obtain funding under this chapter for the next calendar year. ~~The committee shall apply to the department~~
289 ~~on a form provided by the department.~~ The application shall comply with this section.

290 **SECTION 41.** ATCP 50.26 (1) (Note), (2) (a) (Note), (2) (b) (Note), (3) (b) (Note), and (4) (Note) are
291 repealed.

292 **SECTION 42.** ATCP 50.28 (1) (c) 3. (Note), (1) (d) 3. (Note), (1) (e) (Note), (2) (a) (Note), and (2) (b) (1)
293 (Note) are repealed.

294 **SECTION 43.** ATCP 50.28 (2) (b) 2. is amended to read:

295 ATCP 50. 28 (2) (b) 2. Obtain LWCB recommendations on the annual grant allocation plan, as required
296 under s. 92.14 (6) (b) and (d), Stats. At least 30 days before the department obtains the LWCB's final
297 recommendations, the department shall provide to DNR, the LWCB, and every county land conservation

298 committee a copy of the draft plan on which the department seeks the LWCB's final recommendations and
299 a copy of the draft environmental assessment written under ch. ATCP 3.02 (h) that accompanies the
300 allocation plan.

301 ~~Note: If the department makes material revisions to the preliminary draft plan before seeking final LWCB~~
302 ~~recommendations, the department will re-issue the revised draft at least 30 days before the LWCB makes~~
303 ~~its recommendations.~~

304 **SECTION 44.** ATCP 50.28 (2) (b) 3. is created to read:

305 ATCP 50.28 (2) (b) 3. If the department makes material revisions to the preliminary draft plan before
306 seeking final LWCB recommendations, the department will re-issue the revised draft at least 30 days before
307 the LWCB makes its recommendations.

308 **SECTION 45.** ATCP 50.28 (3) (b) (Note) and (5) (a) 1. b. (Note) are repealed.

309 **SECTION 46.** ATCP 50.28 (5) (a) 2. is amended to read:

310 ATCP 50.28 (5) (a) 2. Increase the total grant to any county. The department shall give all counties notice
311 and equal opportunity to compete for funding increases other than increases due to extensions under subd.
312 1., voluntary transfers of ~~cost share~~ funds from one county to another county under subd. 5., and re-
313 allocations of cost-share funds by the department under subd. 5. from a reserve established in the annual
314 allocation plan. The department shall make any revisions in compliance with the requirements in par. (b).

315 **SECTION 47.** ATCP 50.28 (5) (a) 5. (Note) is repealed.

316 **SECTION 48.** ATCP 50.30 (2) is amended to read:

317 ATCP 50.30 (2) STATEWIDE PRIORITIES. The department shall give priority to county or non-county
318 projects that address statewide priorities identified by the department and DNR. ~~These priorities may~~
319 ~~include:~~

320 **SECTION 49.** ATCP 50.30 (2) (a) (b) (c) (d) (e) (f) and (Note) are repealed.

321 **SECTION 50.** 50.32 (1) (Note), (2) (c) (Note), (3) (a) (Note), and (5) (a) (Note) are repealed.

322 **SECTION 51.** ATCP 50.32 (5) (am) is created to read:

323 ATCP 50.32 (5) (am) The department will offer each county a minimum staffing grant, as specified in the
324 annual grant application, subject to the availability of funds.

325 **SECTION 52.** ATCP 50.32 (7) (a) is amended to read:

326 ATCP 50.32 (7) (a) To obtain a reimbursement payment under sub. (6) (a), a county land conservation
327 committee shall file a reimbursement request on the form provided by the department. A county may file a
328 reimbursement request ~~on or after November 1 for costs incurred before November 1~~ upon incurring
329 sufficient expenses. A county may file a second reimbursement request for costs not covered by the first
330 request. A county may file no more than 2 reimbursement requests, and shall file all reimbursement requests
331 by February 15 of the year following the grant year.

332 **Note:** ~~The department does not provide paper copies of its grant forms. To obtain the most current program~~
333 ~~grant forms, including the form to request reimbursement from the department, counties should refer to the~~
334 ~~program's working manual on the department website at:~~

335 ~~https://datep.wi.gov/Pages/Programs_Services/ATCP50.aspx.~~

336 **SECTION 53.** ATCP 50.32 (7) (c) and (7) (d) (Note) are repealed.

337 **SECTION 54.** ATCP 50.32 (8) (a), (c) 1., and (d) are amended to read:

338 ATCP 50.32 (8) (a) The department shall reimburse eligible county costs for employee salaries, employee
339 fringe benefits, and independent contractor fees ~~at the rate provided under s. 92.14, Stats~~ per the amount
340 allocated under s. ATCP 50.28.

341 (c) 1. A county may choose which employees or independent contractors are considered the county's first,
342 second, and subsequent staff persons. The county's first, second, and subsequent staff persons may differ
343 from those identified in the grant application submitted under s. 50.26 (1).

344 (d) A county receiving an annual staffing grant under this chapter shall maintain its annual soil and water
345 resource management expenditures ~~at or above the average annual amount that the county expended in the~~
346 ~~years 1985 and 1986~~, as required by s. 92.14 (7), Stats. A county may count, as part of its contributions
347 under this paragraph, county expenditures for employees and independent contractors who work for the

348 county land conservation committee. A county may not count capital improvement expenditures, or the
349 expenditure of grant revenues that the county receives from other governmental entities.

350 **SECTION 55.** ATCP 50.32 (10) (Note) and (11) (b) (Note) are repealed.

351 **SECTION 56.** ATCP 50.34 (1) is amended to read:

352 ATCP 50.34 (1) GENERAL. The department may award an annual grant to each eligible county to finance
353 ~~county cost share grants~~ provide financial assistance to landowners. The department shall award the grant
354 to the county land conservation committee. The committee may ~~make cost share grants~~ provide financial
355 assistance to landowners for conservation practices needed to comply with any of the following:

356 **SECTION 57.** ATCP 50.34 (1) (d) (Note) and (2) (b) (Note) are repealed.

357 **SECTION 58.** ATCP 50.34 (3) and (4) (a) 1. and 2. are amended to read:

358 ATCP 50.34 (3) GRANT PAYMENTS. The department shall make grant payments under sub. (1) on a
359 reimbursement basis. The department shall reimburse the county after the county certifies that the ~~cost-~~
360 ~~shared~~ conservation practice has been properly installed and paid for and contract terms are met. To obtain
361 reimbursement ~~for a cost shared practice~~, a county land conservation committee shall do all of the following
362 that apply using ~~on~~ forms provided by the department:

363 (a) File with the department a copy of the county's ~~cost share~~ contract with the landowner and the supporting
364 documentation specified in department forms to be submitted to obtain reimbursement. ~~The eCost-share~~
365 contracts shall comply with s. ATCP 50.40 (8) and (9).

366 **Note:** ~~The department must approve any cost share contract that exceeds \$50,000. See s. ATCP 50.40 (8).~~

367 (b) Certify the amount of reimbursement due.

368 (c) Certify, based on documentation possessed by the county, that all applicable conditions in s. ATCP
369 50.40 (10) to (12) and (14) and 50.41 are met.

370 **Note:** ~~Department forms will specify the documentation a county must provide under par. (a) with its~~
371 ~~reimbursement request, or in lieu of documentation, the information the county must certify under par. (c).~~
372 ~~When a county land conservation committee is not required to submit documentation and provides, instead,~~

373 ~~its certification under par. (c), it must keep that supporting documentation on file as required by sub. (7).~~
374 ~~The committee must make the documentation available to the department and grant auditors upon request.~~

375 (d) File all reimbursement requests; and required documentation such as cost-share contracts or other
376 documents to show payment conditions are met, and supporting documentation by February 15 of the year
377 following the grant year.

378 (4) (a) 1. To finance ~~cost shared~~ conservation practices identified in subch. VIII, except that bond revenue
379 funds may not be used to finance practices identified in s. ATCP 50.67, 50.68, 50.78, 50.79, 50.82, or 50.89.

380 2. To finance engineering services provided in connection with a ~~cost shared~~ conservation practice for
381 which bond revenues may be used under subd. 1.

382 **Note:** ~~See s. ATCP 50.40 (7).~~

383 **SECTION 59.** ATCP 50.34 (4) (b) (Note) is repealed.

384 **SECTION 60.** ATCP 50.34 (5m) is amended to read:

385 ATCP 50.34 (5m) INTER-COUNTY TRANSFERS. The department may approve an agreement between
386 counties to transfer uncommitted ~~bond revenue or other cost share~~ grant funds if all of the following apply:

387 (a) The grant funds subject to the transfer were not previously extended by the transferring county.

388 (b) The county transferring the ~~cost share~~ grant funds certifies to the department that it has an uncommitted
389 portion of its ~~cost share~~ allocation equal to or greater than the transfer amount, and has approval of its land
390 conservation committee to make these funds available for transfer.

391 (c) The county receiving the ~~cost share~~ grant funds has made a commitment to use the transferred funds on
392 one or more specific projects, and has the approval of its land conservation committee to accept the
393 transferred funds for cost-sharing on the specific projects.

394 (d) The counties apply for the transfer of ~~cost share~~ grant funds on a form provided by the department. The
395 department may require any information on the form reasonably necessary for the department to approve
396 the transfer of funds.

397 ~~**Note:** Transferred funds may be extended by the receiving county into the subsequent grant year for the~~
398 ~~same project, subject to sub. (6).~~

399 **SECTION 61.** ATCP 50.34 (5m) (e) is created to read:

400 ATCP 50.34 **(5m)** (e) The grant funds being transferred were not part of their staffing allocation.

401 **SECTION 62.** ATCP 50.34 (6) (a) and (a) 2. and 3. are amended to read:

402 ATCP 50.34 **(6)** (a) If a grant under sub. (1) funds a landowner ~~cost share~~ contract that is signed by
403 December 31 of the grant year but not completed by December 31 of that year, the department may extend
404 funding for that contract in the next year's grant allocation to the county if all of the following apply:

405 2. The landowner has not taken any action in violation of the ~~cost share~~ contract.

406 3. The county land conservation committee files with the department, by December 31 of the initial grant
407 year, a written request that identifies the ~~cost shared~~ projects for which the extended funds will be used,
408 and the total funds to be extended. The department may, for good cause, accept an extension request filed
409 between December 31 of the initial grant year and February 15 of the subsequent grant year.

410 **SECTION 63.** ATCP 50.34 (6) (a) 3. (Note) and 4. (Note) are repealed.

411 **SECTION 64.** ATCP 50.34 (6) (b), (7) (a) 1., and (7) (b) are amended to read:

412 ATCP 50.34 **(6)** (b) A county may transfer a funding extension under par. (a) from one landowner cost-
413 share contract to another provided that the department approves an extension of both projects. Extended
414 bond funds may not be used on new cost-share contracts. Extended bond funding, if not spent for the
415 designated cost-share contract in the year of the extension, remains with the department for distribution
416 under a future year's allocation plan.

417 ~~**Note:** A county may make partial payments for completed portions of a cost shared practice, as provided~~
418 ~~in s. ATCP 50.40 (12).~~

419 **(7)** (a) 1. Copies of all county ~~cost share~~ contracts with landowners, including any provisions related to
420 operation and maintenance of installed practices.

421 (b) A county land conservation committee shall retain ~~cost share~~ records under par. (a) for at least 3 years
422 after the committee makes its last ~~cost share~~ payment to the landowner, or for the duration of the
423 maintenance period required for the ~~cost shared~~ conservation practice under subch. VIII, whichever is
424 longer. The committee shall make the records available to the department and grant auditors upon request.

425 **SECTION 65.** ATCP 50.36 (1) (Note) and (2) (Note) are repealed.

426 **SECTION 66.** ATCP 50.36 (3) is amended to read:

427 ATCP 50.36 (3) BREACH OF CONTRACT. (a) The department may withhold or demand return of grant
428 payments if the department finds that the grant recipient has violated this chapter or breached its grant
429 contract with the department.

430 (b) The department may seek other administrative or judicial sanctions, as appropriate.

431 (c) A grant recipient may appeal an administrative sanction under this section to the extent provided under
432 ch. 227, Stats.

433 ~~**Note:** The department may seek other administrative or judicial sanctions, as appropriate. A grant recipient~~
434 ~~may appeal an administrative sanction under this section, to the extent provided under ch. 227, Stats.~~

435 **SECTION 67.** ATCP 50 Subchapter V (title) is amended to read:

436 ATCP 50 Subchapter V ~~Cost Share Grants~~ Financial Assistance to Landowners

437 **SECTION 68.** ATCP 50.38 is created to read:

438 ATCP 50.38 Financial Assistance to Landowners

439 **(1) GENERAL**

440 (a) A county land conservation committee may use grant funds awarded to the county under ss. ATCP
441 50.34 or 50.35 to provide financial assistance to landowners.

442 (b) A county land conservation committee's authority to acquire and distribute grant funds from other
443 sources is not restricted by this subchapter.

444 (c) A county land conservation committee may determine all the following, subject to this chapter:

445 1. The landowners who will receive financial assistance.

- 446 2. The conservation practices that will be eligible for financial assistance.
- 447 3. The form of financial assistance.
- 448 4. The costs for each conservation practice or conservation performance measure that will receive financial
449 assistance
- 450 5. The rate of financial assistance.

451 (d) No county employee or land conservation committee member may:

- 452 1. Take any official action substantially affecting a matter which the individual, a member of their
453 immediate family, or an organization with which the individual is associated has a substantial financial
454 interest.
- 455 2. Use their office or position in a way that produces or assists in the production of substantial benefit,
456 direct or indirect, for the individual, one or more members of the individual's immediate family either
457 separately or together, or an organization with which the individual is associated.

458 **SECTION 69.** ATCP 50.40 (1) is amended to read:

459 ATCP 50.40 (1) GENERAL. ~~(a)~~ A county land conservation committee may use grant funds awarded to the
460 county under s. ATCP 50.34 to make cost-share grants to landowners for any of the purposes authorized
461 under s. ATCP 50.34

462 (1). Cost-share grants shall comply with this subchapter.

463 **Note:** This subchapter regulates a county's use of grant funds awarded under s. ATCP 50.34. It does not
464 limit a county's authority to acquire and distribute cost-share grant funds from other governmental or private
465 entities.

466 ~~The department and DNR will prepare a joint allocation plan for the allocation of funds to counties under~~
467 ~~ss. 92.14, 281.65, and 281.66, Stats. Funding under this chapter is primarily aimed at rural conservation~~
468 ~~practices. DNR may provide funding for urban conservation practices that are not financed under this~~
469 ~~chapter.~~

470 ~~(b) A county land conservation committee may determine all the following, subject to this chapter:~~

- 471 ~~1. The landowners who will receive cost share grants.~~
472 ~~2. The conservation practices that will be cost shared.~~
473 ~~3. The costs, for each conservation practice, that will be shared.~~
474 ~~4. The rate at which costs will be shared.~~

475 ~~**Note:** If a county requires a landowner to change an "existing" agricultural practice, the county must comply~~
476 ~~with minimum cost share requirements under sub. (2). But if a county enters into a voluntary cost share~~
477 ~~arrangement with a landowner, the county is free to negotiate the grant amount with the landowner (up to~~
478 ~~the maximum amounts provided in s. ATCP 50.42).~~

479 **SECTION 70.** ATCP 50.40 (2) (d) (Note), (3) (Note), (9) (j) (Note), (9) (L) (Note), and (9) (o) (Note) are
480 repealed.

481 **SECTION 71.** ATCP 50.40 (10) (b) is amended to read:

482 ATCP 50.40 **(10)** (b) Installed in compliance with applicable construction site erosion control standards
483 contained in the DNR Storm Water Construction Technical Standards, in effect on ~~May 1, 2014~~ June 1,
484 2018.

485 **SECTION 72.** ATCP 50.40 (11) (b) (4) and (Note) are repealed.

486 **SECTION 73.** ATCP 50.40 (11) (b) (5) is created to read:

487 ATCP 50.40 **(11)** (b) (5) An architect registered under ch. 443, Stats., if the conservation engineering
488 practice consists of a roof structure.

489 **SECTION 74.** ATCP 50.40 (14) (d) (Note) is repealed.

490 **SECTION 75.** ATCP 50.40 (14) (e) is created to read:

491 ATCP 50.40 **(14)** (e) Cost-share funds can be used to record any contract authorized under this chapter.

492 **SECTION 76.** ATCP 50.40 (16) (a) (Note), (b) (Note), and (c) (Note) are repealed.

493 **SECTION 77.** ATCP 50.40 (17) is amended to read:

494 ATCP 50.40 **(17)** COMBINED GRANTS. Cost-share grants under this chapter may be combined with grants
495 from other federal, state, local, and private sources. Except as restricted under s. ATCP 50.42 (1),

496 department funds allocated under this chapter may be combined with DNR funds allocated under s. 281.65
497 or 281.66, Stats., to finance up to 70% of the total cost of a project, or up to 90% in cases of economic
498 hardship under s. ATCP 50.42 (4). This subsection does not limit the use of cost-share funds or financial
499 assistance from other sources, including other sources authorized under state law. A cost-share grant under
500 this chapter may not reimburse a landowner for any costs that another governmental entity is also
501 reimbursing.

502 **SECTION 78.** ATCP 50.40 (17) (Note), (18) (Note), and (19) are repealed.

503 **SECTION 79.** ATCP 50.41 is created to read:

504 **ATCP 50.41 Other forms of financial assistance**

505 **(1) OTHER FORMS OF FINANCIAL ASSISTANCE.** Counties may use funds granted under ss. 50.34 and 50.35
506 to provide other forms of financial assistance to landowners, including:

- 507 (a) Incentive payments
- 508 (b) Performance Payments
- 509 (c) Other payment types authorized by or not prohibited under state law

510 **(2) PROHIBITED PAYMENTS.** The following uses of financial assistance provided under this subsection are
511 prohibited:

- 512 (a) Costs or activities that have or will be reimbursed by any other source of governmental funding.
- 513 (b) Costs that will exceed 70% of the total cost of a project, or up to 90% in the cases of economic
514 hardship. This does not limit the use of financial assistance from other non-governmental sources.
- 515 (c) Activities prohibited under s. 50.40 (3) (b).

516 **(3) FINANCIAL ASSISTANCE CONTRACT.** Counties shall enter into a written contract with every landowner
517 to whom the committee awards financial assistance not already covered under s. 50.40 (8).

518 **(4) FINANCIAL ASSISTANCE CONTRACT TERMS.** A contract under sub. (3) shall include all of the following:

- 519 (a) The landowner's name and address.
- 520 (b) The purpose for the financial assistance.

- 521 (c) The rate or amount of financial assistance.
- 522 (d) A timetable for completing the contract requirements.
- 523 (e) The terms the landowner must meet to receive the financial assistance.
- 524 (f) An agreement that the landowner will repay the full amount of the financial assistance immediately,
525 upon demand by the county land conservation committee, if the landowner fails to meet the terms of the
526 contract.
- 527 (g) Provisions authorizing the county land conservation committee to withhold financial assistance if the
528 committee finds that the landowner has breached the contract.
- 529 (h) Other terms or conditions specified by the county land conservation committee.

530 **(5) PAYMENT CONDITIONS MET.** Before a county land conservation committee requests any reimbursement
531 from the department under ss. ATCP 50.34, 50.35, or 50.36, the committee shall document the landowner
532 met the terms of the contract.

533 **Section 80.** ATCP 50.42 (title) and (1) are amended to read:

534 **ATCP 50.42 Maximum ~~cost-share~~ rates.**

535 **(1) ~~MAXIMUM COST SHARE RATES.~~**

536 (a) Except as provided under pars. (b) to (e), ~~cost-share payments funded~~ financial assistance under this
537 chapter may not exceed 70% of the total eligible costs allowed under s. ATCP 50.40 (4) to install and
538 maintain the conservation practice for the period specified in the ~~cost-share grant~~ contract. This paragraph
539 does not limit the use of ~~cost-share funds~~ financial assistance from other sources, except when financial
540 assistance provided under this chapter is combined with other government funds or from programs
541 authorized by the state of Wisconsin the total funding from all government sources cannot exceed 100% of
542 the project costs.

543 **Note:** ~~The maximum cost-share rates in this section and other sections were established to meet the~~
544 ~~requirements of s. 281.16 (3) (e), Stats., which provides that an owner or operator of an agricultural facility~~
545 ~~may not be required by the state or a municipality to comply with the performance standards, prohibitions,~~

546 ~~conservation practices, or technical standards unless cost sharing is available for at least 70% of the cost of~~
547 ~~compliance, or is 70% to 90% of the cost of compliance in cases of economic hardship. These maximum~~
548 ~~cost share rates are not required for the practices specified in s. ATCP 50.42 (1) (dg) and (dr).~~

549 (b) The maximum ~~cost share~~ financial assistance rate under par. (a) is 90% if there is an economic hardship
550 under sub. (4).

551 (bm) The economic hardship provision under sub. (4) is available to owners and grant recipients who
552 operate farms and is not available to non-farmers.

553 (c) For cropping practices identified in sub. (2), a county land conservation committee may pay up to the
554 amount authorized under this subsection or sub. (2), whichever is higher.

555 (d) For more than ½ acre of riparian land taken out of agricultural production to install a conservation
556 practice, a county land conservation committee may pay a qualified landowner up to the CREP-equivalent
557 amount authorized in s. ATCP 50.08 (4) if that amount exceeds the relevant amount authorized under this
558 subsection.

559 (dg) The cost-share payments for the following conservation practices may not exceed 50% of the total
560 eligible costs to install and maintain the practice unless the landowner is required to install the practice to
561 achieve compliance with an agricultural performance standard ~~on cropland, pastures, or a livestock~~
562 ~~operation~~ ss. NR 151.02 to 151.08, in effect as of June 1, 2018:

- 563 1. Access roads under s. ATCP 50.65.
- 564 2. Roof runoff systems under s. ATCP 50.85.
- 565 3. Streambank or shoreline protection under s. ATCP 50.88.
- 566 4. Stream crossing under s. ATCP 50.885.
- 567 5. Wetland development or restoration under s. ATCP 50.98.

568 (dr) The cost-share payments for any conservation practice installed on land owned by a local governmental
569 unit may not exceed 50% of the total eligible costs to install and maintain the practice.

570 ~~**Note:** County employees and land conservation committee members are subject to the conflict of interest~~
571 ~~provisions of s. ATCP 50.40 (19) when providing cost sharing to the local governmental units with which~~
572 ~~they are affiliated.~~

573 (e) A county land conservation committee may provide cost-share funds, at the rate authorized under this
574 subsection, to replace a cost-shared conservation practice that is damaged or destroyed by natural causes
575 beyond the landowner's control.

576 ~~**Note:** See s. ATCP 50.08 and s. 92.14 (6) (gm), Stats. Paragraphs (c) and (d) provide "short-cut" alternatives~~
577 ~~for determining cost share payments in some cases. These methods do not require a case by case~~
578 ~~computation of "cost." A county is not required to use these alternative methods, except as provided in s.~~
579 ~~ATCP 50.08 (4).~~

580 **SECTION 81.** ATCP 50.42 (2) is repealed and recreated to read:

581 ATCP 50.42 (2) CROPPING PRACTICES; MAXIMUM AMOUNTS. A county land conservation committee may
582 pay up to the following amounts for the installation or maintenance of the following crop- ping practices:

- 583 (a) For contour farming, \$9 per acre per year.
- 584 (b) For stripcropping, \$13.50 per acre.
- 585 (c) For residue management systems, no-till or strip till systems, \$18.50 per acre per year.
- 586 (d) For nutrient management, \$10 per acre per year for new nutrient management plan development, and
587 \$5 per acre for a one-time nutrient management plan update prior to April 1, 2027in areas impacted by the
588 Silurian bedrock performance standards outlined in s. NR 151.075.
- 589 (e) For conservation crop rotation, \$10 per acre per year.
- 590 (f) For harvestable buffers, annual per-acre financial assistance shall not exceed soil rental rates set by the
591 United States department of agriculture.

592 **Note:** For current soil rental rates, see USDA-Farm Service Agency Conservation Reserve Program
593 statistics at www.fsa.usda.gov

594 **SECTION 82.** ATCP 50.42 (5) (Note) is repealed.

595 **SECTION 83.** ATCP 50.46 (1) (a) 1. (Note) and (1) (b) (Note) are repealed.

596 **SECTION 84.** ATCP 50.46 (1) (d) and (2) are amended to read:

597 ATCP 50.46 (1) (d) Notwithstanding par. (c), a well driller or pump installer registered under s. 280.15,
598 Stats., may certify a well construction or decommissioning under sub. (1) and an architect registered under
599 ch. 443, Stats., may certify a roof under sub. (1).

600 (2) Conservation engineering practices. For purposes of this section, a conservation engineering
601 practice includes any of those practices identified in subch. VIII, authorized by the department
602 under s. ATCP 50.40 (3), allowed under s. 281.65, Stats., or approved and published, as part of the
603 NRCS field office technical guide or as a formal technical standard by the DNR.

604 **SECTION 85.** ATCP 50.46 (2m) (b) (Note) and (3) (a) (Note) are repealed.

605 **SECTION 86.** ATCP 50.46 (5) (a) 2. is amended to read:

606 ATCP 50.46 (5) (a) 2. Certify that design specifications for jobs in that class comply with those identified
607 in subch. VIII, authorized by the department under s. ATCP 50.40 (3), allowed by s. 281.65, Stats., or
608 approved and published, as part of the NRCS field office technical guide or as a formal technical standard
609 by the DNR.

610 **SECTION 87.** ATCP 50.46 (5) (a) 3. (Note) and (5) (b) is repealed.

611 **SECTION 88.** ATCP 50.46 (5) (c) is created to read:

612 ATCP 50.46 (5) (c) In cases where department field engineers may be required to provide a job certification
613 approval level at a level higher than their own, they should consult with a person who has appropriate
614 certification levels in the areas being rated. A person who is certified at a job level under par. (a) may certify
615 their own work at that level for any purpose including funding authorized under this chapter.

616 **SECTION 89.** ATCP 50.46 (7) (c), (8) (a) and (c), (9) (c) 1., and (11) (b) are amended to read:

617 ATCP 50.46 (7) (c) A field engineer shall document, in writing, ~~his or her~~ their reasons for reducing a
618 certification rating under sub. (5), or for refusing to make a requested rating change. The field engineer
619 shall provide that documentation to the person rated, and to that person's supervisor if any.

620 **(8)** (a) An affected person may appeal a field engineer's action under sub. (5), (6) or (7). The affected person
621 shall file ~~his or her~~ their appeal in writing, with the field engineer, within 10 business days after the applicant
622 receives notice of the field engineer's action. The appeal shall identify the specific matters in dispute and
623 the specific basis for the appeal.

624 (c) If an appeal cannot be resolved after an informal meeting under par. (b), the field engineer shall forward
625 the appeal to a department reviewer designated by the administrator of the department's agricultural
626 resource management division. The reviewer shall hold an informal hearing on the appeal within 10
627 business days after the reviewer receives the appeal, unless the applicant agrees to a later date for the
628 informal hearing. The reviewer shall hold the informal hearing by telephone or at a location determined by
629 the reviewer. Within 10 business days after the conclusion of the informal hearing, the reviewer shall issue
630 a written decision which affirms, reverses, or modifies the field engineer's action. The reviewer shall
631 provide a copy of ~~his or her~~ their written decision to the applicant. The decision shall include a notice of
632 the applicant's right to request a contested case hearing under par. (d).

633 **(9)** (c) 1. Any land conservation committee, ~~or state agency,~~ or federal agency that employs the individual
634 whose certification is suspended or revoked.

635 **(11)** (b) Any engineered practice designed by a person certified under this section shall include project
636 documentation establishing that the practice was designed according to applicable standards, and that the
637 design was reviewed and approved for compliance with those standards. Any person approving a design
638 shall have job approval authority at the level required by the engineered practice. For practices requiring a
639 job class authority of III or higher, at least one person other than the practice designer shall review ~~and~~
640 approve the design and approve as being checked. For practices requiring job class authority of I or II, the
641 person preparing the design may also review and approve the design.

642 **SECTION 90.** ATCP 50.48 (1) (a), (2) (a) 4., (2) (c) (Note), (4) and (6) are amended to read:

643 ATCP 50.48 **(1)** (a) Compliance with the NRCS ~~technical guide~~ conservation practice standard 590.

644 (2) (a) 4. The holder of other credentials that the department deems equivalent to those specified under
645 subds. 1. to 3. A landowner is presumptively qualified to prepare a nutrient management plan for ~~his or her~~
646 their farm, but not for others, if the landowner completes a department-approved training course that results
647 in a nutrient management plan in compliance with s. ATCP 50.04 (3) and the course instructor approves
648 the landowner's first annual plan. The landowner shall complete a department-approved training course at
649 least once every 4 years to maintain ~~his or her~~ their presumptive qualification. The course instructor is not
650 required to hold credentials listed in subds. 1. to 3., but ~~he or she~~ they must be knowledgeable and competent
651 in accordance with sub. (1).

652 (c) **Note:** The department does not affirmatively certify nutrient management planners. A nutrient
653 management planner who meets all of the requirements under sub. (2) may represent ~~himself or herself~~
654 themselves as a qualified nutrient planner, without any certificate from the department. A person qualified
655 only to prepare ~~his or her~~ their own nutrient management plan under sub. (2) (a) 4. may not misrepresent
656 that ~~he or she is~~ they are qualified to prepare nutrient management plans for others.

657 (4) **DISQUALIFICATION.** The department may issue a written notice to an individual, declaring that the
658 individual is not a qualified nutrient management planner under this section. The notice shall specify the
659 basis for the department's declaration. The department may disqualify a nutrient management planner if the
660 planner violates or fails to provide reasonable documentation of compliance with sub. (3) or lacks
661 qualifications required under sub. (1). A person who is named in a disqualification notice under sub. (4)
662 may request a contested case hearing under s. 227.42, Stats., and ch. ATCP 1.

663 ~~**Note:** A person who is named in a disqualification notice under sub. (4) may request a contested case~~
664 ~~hearing under s. 227.42, Stats., and ch. ATCP 1.~~

665 (6) **RECORDS.** A qualified nutrient management planner shall keep copies of all nutrient management plans
666 that the qualified nutrient management planner prepares or approves for funding under ss. 91.14 or 281.65
667 or 281.66, Stats., or this chapter for a landowner claiming farmland preservation tax credits under s. 71.613,
668 Stats. The qualified nutrient management planner shall retain the records for at least 4 years, and shall make

669 them available for inspection and copying by the department or its agent upon request. The qualified
670 nutrient management planner under s. ATCP 50.48 (3) shall complete the nutrient management checklist
671 form provided by the department. The qualified nutrient management planner shall have reasonable
672 documentation to substantiate each checklist response. ~~The qualified nutrient management planner and~~ shall
673 provide it to the department or its agent upon request and in a format that allows for determination of
674 compliance with s. ATCP 50.04 (3). Minimum documentation requirements are outlined in NRCS
675 conservation practice standard 590 nutrient management (December 2015) and Wisconsin Conservation
676 Planning Technical Note WI-1 (February, 2016) and include:

677 **SECTION 91.** ATCP 50.48 (6) (a), (b), (c) and note are created to read:

678 ATCP 50.48 (6) (a) Narrative summarizing the farms implementation and operation of the nutrient
679 management plan.

680 (b) Maps of the farm identifying fields, soils, and spreading restrictions and prohibitions.

681 (c) Crop, field, and nutrient information, such as crop rotation, tillage, soil nutrient levels and nutrient
682 applications.

683 **Note:** An example of reasonable documentation for substantiating checklist responses and determining
684 compliance is a database file from nutrient management planning software.

685 **SECTION 92.** ATCP 50.50 (1) (Note) is repealed.

686 **SECTION 93.** ATCP 50.50 (2) (d) 5. (Note) is amended to read:

687 ATCP 50.50 (2) (d) 5. **Note:** Copies of the Nutrient Application Guidelines for Field, Vegetable, and Fruit
688 Crops in Wisconsin. *UWEX Publication A2809* (2012) and the *Wisconsin Procedures for Soil Testing, Plant*
689 *Analysis and Feed & Forage Analysis, Soil Fertility Series* (October, 2013) are on file at the department
690 and legislative reference bureau. To obtain a copy of the A2809, see s. ATCP 50.04 (3) (f) 4. (note). Copies
691 of the Wisconsin Procedures publication are available at the University of Wisconsin website at:
692 ~~<http://uwlab.soils.wisc.edu/lab-procedures>~~ [https://uwlab.soils.wisc.edu/about-us/lab-procedures-and-](https://uwlab.soils.wisc.edu/about-us/lab-procedures-and-methods/)
693 [methods/](https://uwlab.soils.wisc.edu/about-us/lab-procedures-and-methods/).

694 **SECTION 94.** ATCP 50.50 (7) (b) (Note) is repealed.

695 **SECTION 95.** ATCP 50.50 (7) (c) is created to read:

696 ATCP 50.50 (7) (c) A laboratory operator may request a contested case hearing under s. 227.42, Stats., and
697 ch. ATCP 1 on the department's action under sub. (7).

698 **SECTION 96.** ATCP 50.50 (8) (c) (Note) is repealed.

699 **SECTION 97.** ATCP 50.52 (1) (f) (Note) and (g) (Note) is repealed.

700 **SECTION 98.** ATCP 50.52 (2) (c) is amended to read:

701 ATCP 50.52 (2) (c) The University of Wisconsin-~~Extension~~.

702 **SECTION 99.** ATCP 50.54 (1) (Note) is amended to read:

703 ATCP 50.54 (1) **Note:** ~~"Local regulations" are defined in s. ATCP 50.01 (18).~~ Local conservation
704 requirements should be consistent with this chapter (see ss. 92.05 (1), (3) (c) and (L), 92.07 (2), 92.11,
705 92.15 (2) to (4), 92.16, 92.17, 93.90, and 281.16 (3), Stats.). ~~The department may review and comment on~~
706 ~~local regulations, as it deems necessary. See specific requirements related to manure storage ordinances (s.~~
707 ~~ATCP 50.56), agricultural shoreland management ordinances (s. ATCP 50.58), and livestock ordinances~~
708 ~~(s. ATCP 50.60).~~ A local regulation may not require a livestock operator to obtain a license or permit for a
709 new or expanding livestock operation, except as specifically authorized under s. 93.90, Stats., and ch. ATCP
710 51. When exercising their approval authority under the livestock facility siting law, political subdivisions
711 ~~are~~ may be limited in their application of local manure storage ordinances adopted under s. 92.16, Stats.,
712 and s. ATCP 50.56. (See s. ATCP 51.18 ~~(6) (Note)~~ 10 (1)).

713 **SECTION 100.** ATCP 50.56 (2) (c) (Note), (3) (b) 2. (Note 1), and (3) (b) 3. (Note) are repealed.

714 **SECTION 101.** ATCP 50.56 (3) (b) 4. and (4) (a) are amended to read:

715 ATCP 50.56 (3) (b) 4. Require consistency with state performance standards and prohibitions, and require
716 construction in accordance with technical conservation practice standards including all of the following:

717 a. NRCS ~~technical guide~~ conservation practice standard 313 waste storage facility ~~standard 313~~ (January,
718 2014-October, 2017).

719 b. NRCS ~~technical guide~~ conservation practice standard 634 waste transfer ~~standard 634~~ (November, 2022).

720 c. Other applicable NRCS ~~technical guide~~ conservation practice standards.

721 d. Applicable DNR requirements under s. 281.65 (4) (g) 5., Stats.

722 (4) (a) Submits a closure plan for approval by the county, city, village, or town. The closure plan shall
723 comply with the waste facility closure provisions contained in the NRCS ~~technical guide, closure of waste~~
724 ~~impoundments standard 360~~ conservation practice standard 360 waste facility closure (~~March, 2013~~ June,
725 2021).

726 **Note:** The NRCS ~~technical guide~~ conservation practice standard 360 is on file with the department and the
727 legislative reference bureau.

728 **SECTION 102.** ATCP 50.56 (4) (c) (Note) is repealed.

729 **SECTION 103.** ATCP 50.56 (6) is amended to read:

730 ATCP 50.56 (6) DEPARTMENT OVERSIGHT. The department may require a county, city, village, or town to
731 ~~do either of the following~~ submit a proposed or adopted ordinance to the department for review to determine
732 consistency with this chapter in connection with the administration of an ordinance under s. 92.16, Stats.:
733 The department may ask the county, city, village, or town for information that it needs to perform the
734 review.

735 (a) ~~Use a department approved application for permitting the construction or closure of a manure storage~~
736 ~~system or structure.~~

737 (b) ~~Submit a proposed or adopted ordinance to the department for review to determine consistency with~~
738 ~~this chapter. The department may ask the county, city, village, or town for information that it needs to~~
739 ~~perform the review~~

740 **SECTION 104.** ATCP 50.60 (2) (b) (Note) is repealed.

741 **SECTION 105.** ATCP Subchapter VIII (title) and (Note) are amended to read:

742 **ATCP Subchapter VIII — Standards for ~~Cost-Shared Practices~~ Receiving Financial Assistance**

743 **Note:** For information on how to obtain NRCS ~~technical guide~~ conservation practice standards and any
744 other standards required under this subchapter, including any secondary standards incorporated by reference
745 in those standards, a person may visit the department website at:
746 https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx, or contact the department in writing at the
747 following address:

748 Wisconsin Department of Agriculture, Trade and Consumer Protection
749 Division of Agricultural Resource Management
750 P.O. Box 8911
751 Madison, WI 53708-8911

752 **SECTION 106.** ATCP 50.61 (title) and (1) is amended to read:

753 **ATCP 50.61 General standards for ~~cost-shared practices~~ receiving financial assistance; pre-approval**
754 **of cost-shared practices.**

755 ATCP 50.61 (1) ~~COST-SHARED PRACTICES MUST COMPLY.~~ Except as authorized under sub. (3), ~~cost-shared~~
756 conservation practices under this chapter standards and any other standards under this chapter, including
757 any secondary standards incorporated by reference in those standards shall comply with applicable
758 standards under this subchapter.

759 **SECTION 107.** ATCP 50.61 (2) (Note) is repealed.

760 **SECTION 108.** ATCP 50.61 (3) is amended to read:

761 ATCP 50.61 (3) Voluntary use of updated technical standards. The department may authorize a county to
762 provide a ~~cost-share grant~~ financial assistance for a conservation practice to be implemented under the
763 updated version of a technical or conservation practice standard listed in this subchapter. The county may
764 provide a ~~cost-share grant~~ financial assistance for the conservation practice using the updated ~~technical~~
765 standard if all of the following apply:

766 (a) The updated ~~technical~~ standard provides conservation benefits at least as beneficial as the version listed
767 in this subchapter.

768 (b) The updated ~~technical~~ standard has been adopted by NRCS, DNR, the department, or the applicable
769 ~~technical standards~~ entity listed in this subchapter.

770 (c) The landowner voluntarily agrees, in writing, to the use of the updated standard to implement the
771 conservation practice.

772 **SECTION 109.** ATCP 50.61 (4) (c) (Note) is repealed.

773 **SECTION 110.** ATCP 50.618 is created to read:

774 **ATCP 50.618: Technical standards development process.**

775 (a) **GENERAL.** The department, in consultation with the department of natural resources, shall develop and
776 revise technical standards to implement the performance standards and prohibitions under s. 281.16 (3) (a),
777 Stats., if needed.

778 (b) The department may decide that the following is necessary to implement a performance standard:

- 779 1. Develop a new technical standard for which the department will be the custodian.
- 780 2. Revise an existing technical standard for which the department is the custodian.

781 (c) The department shall use the process used by the standards oversight council, or other inter-disciplinary
782 team, when it acts to develop or revise technical standards for which it is the custodian. The process shall
783 include the following:

- 784 1. The department shall convene a work group that includes agencies and persons with technical expertise
785 and direct policy interest.
- 786 2. The work group shall publish a class 1 public notice and consider public comments received on the
787 technical standard prior to providing recommendations to the department.
- 788 3. The work group shall provide a recommended technical standard to the department.

789 (d) Review and approval of technical standards.

- 790 1. Upon receipt of a recommended technical standard or technical standard revision, the department shall
791 determine if the technical standard will effectively achieve or contribute to achievement of the performance
792 standards under s. 281.16 (3) (a), Stats.

793 2. If the department determines that a recommended technical standard will not adequately or effectively
794 implement a performance standard under s. 281.16 (3) (a), Stats., the recommended technical standard may
795 not be used to implement a performance standard in whole or in part.

796 3. If the department determines that a recommended technical standard will adequately and effectively
797 implement a performance standard under s. 281.16 (3) (a), Stats., in whole or in part, the new or revised
798 technical standard shall be used beginning with plans developed after the date of this determination.

799 (e)The department may identify technical standards that exist or are developed by qualified groups or
800 organizations as adequate and effective to implement the performance standards under s. 281.16 (3) (a),
801 Stats.

802 **SECTION 111.** ATCP 50.62 (3) (d) is amended to read:

803 ATCP 50.62 (3) (d) Any manure storage system costs related to an animal feeding operation if all of the
804 manure from that operation could be applied to land according to the NRCS ~~technical guide~~ conservation
805 practice standard 590 nutrient management ~~standard 590~~ (December, 2015) without causing or aggravating
806 nonattainment of water quality standards.

807 **SECTION 112.** ATCP 50.62 (3) (d) (Note) is repealed.

808 **SECTION 113.** ATCP 50.62 (5) (e) and (em) 1. are amended to read:

809 ATCP 50.62 (5) (e) The system complies with all of the following that apply:

810 1. NRCS ~~technical guide~~ conservation practice standard 313 waste storage facility ~~standard 313~~ (January,
811 ~~2014~~ October, 2017).

812 2. NRCS ~~technical guide~~ conservation practice standard 634 waste transfer ~~standard 634~~ (November, 2022).

813 3. NRCS ~~technical guide~~ conservation practice standard 351 well decommissioning ~~standard 351~~ (~~October,~~
814 ~~2014~~ August, 2021).

815 4. NRCS ~~technical guide~~ conservation practice standard 382 fence ~~standard 382~~ (January, 2014).

816 5. NRCS ~~technical guide~~ conservation practice standard 561 heavy use area protection ~~standard 561~~
817 (~~August, 2015~~ November 2022).

818 6. NRCS ~~technical guide~~ conservation practice standard 520 pond sealing or lining — flexible membrane
819 standard 521A compacted soil treatment (September, 2012–October, 2017).

820 7. NRCS ~~technical guide~~ conservation practice standard 521 pond sealing or lining — bentonite sealant
821 standard 521C geomembrane or geosynthetic clay liner (January, 2011–October, 2017).

822 8. NRCS ~~technical guide~~ conservation practice standard 522 pond sealing or lining — compacted clay
823 treatment standard 521D concrete (September, 2012–June, 2021).

824 9. Other standards specified by the department.

825 (em) 1. The landowner is responsible, at ~~his or her~~ their own cost, for construction of any additional storage
826 necessary to maintain the same number of days of storage capacity if the landowner's nutrient management
827 plan cannot be modified to allow for land spreading of the additional manure from the expanded livestock
828 operation.

829 **SECTION 114.** ATCP 50.62 (f) (Note) is repealed.

830 **SECTION 115.** ATCP 50.62 (5) (f) 1. and 2. are created to read:

831 ATCP 50.62 (5) (f) 1. The landowner must provide to the county a completed nutrient management
832 checklist to receive cost-share payment for this practice

833 2. The landowner must provide an updated checklist for each year of the maintenance period.

834 **SECTION 116.** ATCP 50.63 (5) is amended to read:

835 ATCP 50.63 (5) Design, construction, and maintenance. A cost-share grant under s. ATCP 50.40 may not
836 reimburse any costs related to the closure of a manure storage system unless the closure plan complies with
837 NRCS conservation practice standard 360 waste facility closure standard 360 (March, 2013–June, 2021).

838 **SECTION 117.** ATCP 50.64 (1) (e) is amended to read:

839 ATCP 50.64 (1) (e) Heavy use area protection described in NRCS ~~technical guide~~ conservation practice
840 standard 561 heavy use area protection standard 561 (August, 2015–November, 2022).

841 **SECTION 118.** ATCP 50.64 (1) (v) (Note) is repealed.

842 **SECTION 119.** ATCP 50.64 (5) (a) is amended to read:

843 ATCP 50.64 (5) (a) The system complies with applicable design, construction, and maintenance standards
844 under this subchapter and NRCS ~~technical guide~~ conservation practice standard 561 heavy use area
845 ~~protection standard 561~~ (August, 2015 November, 2022).

846 **SECTION 120.** ATCP 50.64 (5) (c) (Note) is repealed.

847 **SECTION 121.** ATCP 50.64 (5) (d) is created to read:

848 ATCP 50.64 (5) (d) The system complies with one or more of the practices listed in Sub. (1) as appropriate.
849 Standards for the listed practices are contained in other sections of this subchapter.

850 **SECTION 122.** ATCP 50.65 (3) (a) 1. and 2. and (Note) are amended to read:

851 ATCP 50.65 (3) (a) 1. NRCS ~~technical guide~~ conservation practice standard 560 access road standard 560
852 (~~October, 2014~~ August, 2021).

853 2. NRCS ~~technical guide~~ conservation practice standard 580 streambank and shoreline protection standard
854 580 (August, 2013 September, 2021).

855 **Note:** When an access road crosses a stream, see s. ATCP 50.885.

856 **SECTION 123.** ATCP 50.65 (3) (a) 3. is created to read:

857 ATCP 50.65 (3) (a) 3. Section ATCP 50.885 when an access road crosses a stream.

858 **SECTION 124.** ATCP 50.66 (3) (a) 1., 2., and 3. and (Note) are amended to read:

859 ATCP 50.66 (3) (a) 1. NRCS ~~technical guide~~ conservation practice standard 575 trails and walkways
860 ~~standard 575~~ (April, 2016 August, 2021).

861 2. NRCS ~~technical guide~~ conservation practice standard 580 streambank and shoreline protection standard
862 580 (August, 2013 September, 2021).

863 3. NRCS ~~technical guide~~ conservation practice standard 382 fence standard 382 (January, 2014).

864 **Note:** When an access road crosses a stream, see s. ATCP 50.885.

865 **SECTION 125.** ATCP 50.66 (3) (a) 4. is created to read:

866 ATCP 50.66 (3) (a) 4. Section ATCP 50.885 when a trails and walkways crosses a stream.

867 **SECTION 126.** ATCP 50.663 is created to read:

868 **ATCP 50.663 Conservation cover.**

869 **(1) DEFINITION.** In this section, “conservation cover” refers to the establishment and maintenance of
870 permanent vegetative cover in an agricultural setting to reduce erosion and sedimentation, improve water
871 quality, and improve soil health.

872 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs:

873 (a) The cost of fencing to protect the planted vegetation.

874 (b) The cost to establish and manage conservation cover, or to provide temporary cover until the planting
875 is established. This may include costs for mulch, seed, and other necessary materials.

876 (c) The cost to shape, smooth, or prepare the site before establishing vegetative cover.

877 **(3) INELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may not reimburse any of the following for
878 conservation cover:

879 (a) Critical area seedings.

880 (b) Whole-field conversion.

881 (c) Pasture plantings.

882 **(4) DESIGN, CONSTRUCTION, AND MAINTENANCE.** A cost-share grant under s. ATCP 50.40 may not
883 reimburse conservation cover costs unless all of the following conditions are met:

884 (a) The conservation cover practices comply with all of the following that apply:

885 1. NRCS conservation practice standard 327 conservation cover (January, 2013).

886 2. NRCS conservation practice standard 472 access control (January, 2018).

887 3. NRCS conservation practice standard 382 fence (January, 2014).

888 4. NRCS conservation practice standard 315 herbaceous weed treatment (June 2016).

889 (b) Following establishment of vegetative cover, management of cover complies with all of the following
890 that apply:

891 1. NRCS conservation practice standard prescribed burning 338 (March 2016).

892 2. NRCS conservation practice standard brush management 314 (April 2017).

893 3. NRCS conservation practice standard prescribed grazing standard 528 (April, 2017).

894 4. Guidelines specified in "Pastures for Profit: A Guide to Rotational Grazing," published by the University
895 of Wisconsin Extension (2014).

896 (c) The landowner agrees to maintain the vegetative cover for 10 years.

897 **SECTION 127.** ATCP 50.668 is created to read:

898 **ATCP 50.668 Conservation crop rotation.**

899 **(1) DEFINITION.** In this section, "conservation crop rotation" means a planned sequence of crops grown on
900 the same ground over a period of time known as the rotation cycle to support one or more of the following
901 purposes:

902 (a) Reduce sheet, rill, and wind erosion

903 (b) Provide increases to soil health indicators and soil organic matter content

904 (c) Protect water quality from excess nutrients

905 (d) Improve efficiency of irrigation water use

906 (e) Reduce plant pest pressures

907 (f) Provide or increase forage supply during periods of low forage production or to extend the grazing
908 season

909 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse for years in a rotation that
910 have been diversified.

911 (a) Diversification may include any of the following:

912 1. Cover crops

913 2. Small grains.

914 3. Perennial crops.

915 4. Livestock integration.

916 5. Other innovative rotations approved by the department.

917 6. Interseeding/Planting Green (require guidance based on the practices involved).

918 (b) If this practice provides a higher level of treatment than previously addressed and documented in a

919 conservation plan it may be implemented again on the same land unit.

920 (3) INELIGIBLE COSTS. A cost-share grant may not reimburse costs for land in permanent cover or years of
921 a rotation following the establishment of a perennial crop.

922 (4) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40 may not
923 reimburse any costs to establish a conservation crop rotation unless all of the following apply:

924 (a) The conservation crop rotation meets NRCS conservation practice standard 328 conservation crop
925 rotation (September, 2015).

926 (b) The conservation crop rotation complies with all of the following that apply:

927 1. NRCS conservation practice standard 340 cover crop (August, 2015)

928 2. NRCS conservation practice standard 590 nutrient management (December, 2015)

929 3. NRCS conservation practice standard 595 pest management conservation system (January, 2022)

930 4. NRCS conservation practice standard 528 prescribed grazing (April, 2017)

931 5. NRCS conservation practice standard 329 residue and tillage management, no till (January, 2018)

932 6. NRCS conservation practice standard 585 stripcropping (June, 2016)

933 (c) Landowner agrees to maintain Conservation Crop Rotation for a minimum of 3 years or the duration
934 of cost share, whichever is longer.

935 **SECTION 128.** ATCP 50.67 (3) (a), (b), and (c) are amended to read:

936 ATCP 50.67 (3)(a) NRCS ~~technical guide~~ conservation practice 330 contour farming standard 330 (March,
937 2016).

938 (b) NRCS ~~technical guide~~ conservation practice 500 obstruction removal standard 500 (July, 2016 June,
939 2021).

940 (c) NRCS ~~technical guide~~ conservation practice 420 upland wildlife habitat management standard 645
941 planting (January, 2013 June, 2020), if habitat management is used to mitigate the loss of habitat resulting
942 from the installation of contour farming.

943 **SECTION 129.** ATCP 50.67 (3) (d) and (e) are created to read:

944 ATCP 50.67 (3) (d) NRCS conservation practice standard 332 contour buffer strips (July, 2016).

945 (e) The landowner agrees to maintain the contour farming system for each cropping season for which cost-
946 sharing is provided.

947 **SECTION 130.** ATCP 50.68 (1) is amended to read:

948 ATCP 50.68 (1) DEFINITION. In this section, "~~cropland cover~~ cover crop" means close-growing grasses,
949 legumes, or small grain grown for any of the following purposes:

950 (a) To control soil erosion ~~during periods when major crops do not furnish adequate cover.~~

951 (b) To ~~add organic matter to the soil~~ improve soil health.

952 (c) To ~~improve soil infiltration, aeration, or tith~~ water quality.

953 **SECTION 131.** ATCP 50.68 (1) (d) is created to read:

954 ATCP 50.68 (1) (d) To manage excess nutrients in the soil.

955 **SECTION 132.** ATCP 50.68 (2) is amended to read:

956 ATCP 50.68 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse costs to establish
957 ~~cropland cover on a field that contributes to water quality degradation when crop harvesting during the~~
958 ~~growing season leaves the field without enough residue to provide adequate surface runoff protection~~ cover
959 crops on an agricultural field.

960 **SECTION 133.** ATCP 50.68 (3) is repealed.

961 **SECTION 134.** ATCP 50.68 (4) is amended to read:

962 ATCP 50.68 (4) DESIGN, CONSTRUCTION, AND MAINTENANCE. A cost-share grant under s. ATCP 50.40
963 may not reimburse any costs to establish ~~cropland~~ a cover crop unless all of the following apply:

964 (a) ~~The cropland cover meets~~ Meets NRCS technical guide conservation practice standard 340 cover crop
965 standard 340 (August, 2015).

966 (b) The landowner agrees to maintain the cover and green manure crop in each cropping season for which
967 cost-sharing is provided.

968 **SECTION 135.** ATCP 50.69 (4) (a) 1., 2., 3., 4., 5., 6., and 7. are amended to read:

- 969 ATCP 50.69 (4) (a) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting
970 ~~standard 342~~ (August, 2016 January, 2018).
- 971 2. NRCS ~~technical guide~~ conservation practice standard 382 fence ~~standard 382~~ (January, 2014).
- 972 3. NRCS ~~technical guide~~ conservation practice standard 386 field border ~~standard 386~~ (January, 2017).
- 973 4. NRCS ~~technical guide~~ conservation practice standard 472 access control ~~standard 472~~ (April, 2016
974 January, 2018).
- 975 5. NRCS ~~technical guide~~ conservation practice standard 484 mulching ~~standard 484~~ (June, 2016).
- 976 6. NRCS ~~technical guide~~ conservation practice standard 612 tree/shrub establishment ~~standard 612~~ (July,
977 ~~2014~~ January, 2018).
- 978 7. NRCS ~~technical guide~~ conservation practice standard 527 sinkhole treatment ~~standard 527~~ (March, 2016
979 September, 2021).

980 **SECTION 136.** ATCP 50.70 (1) and (4) (b) 1., 2., 3., 4., 5., 6., 7., 8., and 9. are amended to read:

981 ATCP 50.70 (1) DEFINITION. In this section, "diversion" means a structure installed to divert excess surface
982 runoff water to an area where it can be used, transported, or discharged without causing excessive soil
983 erosion. A "diversion" can also be used to divert surface runoff water around farmsteads and/or agricultural
984 waste systems to prevent water from becoming contaminated runoff. "Diversion" includes a channel with
985 a supporting earthen ridge on the lower side, installed across the slope with a self-discharging and non-
986 erosive gradient.

- 987 (4) (b) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting ~~standard 342~~
988 (~~August, 2016~~ January, 2018).
- 989 2. NRCS ~~technical guide~~ conservation practice standard 362 diversion ~~standard 362~~ (August, 2016).
- 990 3. NRCS ~~technical guide~~ conservation practice standard 382 fence ~~standard 382~~ (January, 2014).
- 991 4. NRCS ~~technical guide~~ conservation practice standard 412 grassed waterway ~~standard 412~~ (July, 2016
992 August, 2021).
- 993 5. NRCS ~~technical guide~~ conservation practice standard 468 lined waterway or outlet ~~standard 468~~ (March,

994 2013 June, 2021).

995 6. NRCS ~~technical guide~~ conservation practice standard 500 obstruction removal standard 500 (~~July, 2016~~
996 June, 2021).

997 7. NRCS ~~technical guide~~ conservation practice standard 606 subsurface drain standard 606 (~~March, 2014~~
998 June, 2021).

999 8. NRCS ~~technical guide~~ conservation practice standard 620 underground outlet standard 620 (~~March, 2014~~
1000 June, 2021).

1001 9. NRCS ~~technical guide~~ conservation practice standard 645 upland wildlife habitat management standard
1002 645 (January, 2013).

1003 **SECTION 137.** ATCP 50.705 (3) (d) and (5) (a) 1., 2., 3., 4., 5., 6., and 7., and (5) (a) 8. (Note) are
1004 amended to read:

1005 ATCP 50.705 (3) (d) A non-permanent storage area allowed under NRCS ~~technical guide waste treatment~~
1006 ~~standard 629~~ conservation practice standard 561 heavy use area protection (~~January, 2014~~ November,
1007 2022).

1008 ATCP 50.705 (5) (a) 1. NRCS ~~technical guide~~ conservation practice standard 313 waste storage facility
1009 ~~standard 313~~ (~~January, 2014~~ October, 2017).

1010 2. NRCS ~~technical guide waste treatment standard 629~~ conservation practice standard 561 heavy use area
1011 protection (~~January, 2014~~ November, 2022).

1012 3. NRCS ~~technical guide~~ conservation practice standard 634 waste transfer standard 634 (~~January, 2014~~
1013 November, 2022).

1014 4. NRCS ~~technical guide~~ conservation practice standard 635 vegetated treatment area standard 635
1015 (~~October, 2014~~ September, 2016).

1016 5. NRCS ~~technical guide~~ conservation practice standard constructed wetland 656 restoration standard 656
1017 (~~September, 2016~~ December, 2016).

1018 6. NRCS ~~technical guide~~ conservation practice standard 590 nutrient management standard 590 (December,

1019 2015).

1020 7. NRCS ~~technical guide~~ conservation practice standard 362 diversion ~~standard 362~~ (August, 2016).

1021 8. Other standards specified by the department.

1022 **Note:** Additional regulatory requirements in s. NR 213 may apply for runoff control systems that store only
1023 feed storage area runoff. including s. NR 213.13 may have additional requirements for sweet corn silage
1024 stacks of greater than 150 tons, and see s. ATCP 51.20 (3) for requirements for livestock facilities required
1025 to obtain a siting permit.

1026 **SECTION 138.** ATCP 50.705 (5) (b) (Note) is repealed.

1027 **SECTION 139.** ATCP 50.71 (3) (b) 1., 2., 3., and 4. are amended to read:

1028 ATCP 50.71 (3) (b) 1. NRCS ~~technical guide~~ conservation practice standard 382 fence ~~standard~~
1029 ~~382~~ (January, 2014).

1030 2. NRCS ~~technical guide~~ conservation practice standard 380 windbreak-shelterbelt establishment and
1031 renovation ~~standard 380~~ (January, 2023).

1032 3. NRCS ~~technical guide~~ conservation practice standard 472 access control ~~standard 472~~ (April, 2016
1033 January, 2018).

1034 4. NRCS ~~technical guide~~ conservation practice standard 650 windbreak/shelterbelt renovation ~~standard~~
1035 ~~650~~ (January, 2013).

1036 **SECTION 140.** ATCP 50.72 (3) (a) 1., 2., 3., 4., 5., 6., and 7. are amended to read:

1037 ATCP 50.72 (3) (a) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting
1038 ~~standard 342~~ (August, 2016 January, 2018).

1039 2. NRCS ~~technical guide~~ conservation practice standard 382 fence standard 382 (January, 2014).

1040 3. NRCS ~~technical guide~~ conservation practice standard 386 field border standard 386 (January, 2017).

1041 4. NRCS ~~technical guide~~ conservation practice standard 393 filter strip standard 393 (January, 2017).

1042 5. NRCS ~~technical guide~~ conservation practice standard 472 access control standard 472 (April, 2016
1043 January, 2018).

1044 6. NRCS ~~technical guide~~conservation practice standard 484 mulching standard 484 (June, 2016).

1045 7. NRCS ~~technical guide~~conservation practice standard 391 riparian forest buffer standard 391 (January,

1046 2013).

1047 **SECTION 141.** ATCP 50.73 (3) (d) 1., 2., 3., 4., 5., 6., 7., 8., 9., 10., 11., and 12. are amended to read:

1048 ATCP 50.73 (3) (d) 1. NRCS ~~technical guide~~conservation practice standard 342 critical area planting

1049 ~~standard 342~~(~~August, 2016~~ January, 2018).

1050 2. NRCS ~~technical guide~~conservation practice standard 350 sediment basin ~~standards 350~~(August, 2016).

1051 3. NRCS ~~technical guide~~conservation practice standard 362 diversion ~~standard 362~~(August, 2016).

1052 4. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

1053 5. NRCS ~~technical guide~~conservation practice standard 500 obstruction removal ~~standard 500~~(~~July, 2016~~

1054 June, 2021).

1055 6. NRCS ~~technical guide~~conservation practice standard 410 grade stabilization structure ~~standard~~

1056 ~~410~~(~~August, 2016~~August, 2021).

1057 7. NRCS ~~technical guide~~conservation practice standard 412 grassed waterway ~~standard 412~~(~~July,~~

1058 ~~2016~~August, 2021).

1059 8. NRCS ~~technical guide~~conservation practice standard 468 lined waterway or outlet ~~standard 468~~(~~March,~~

1060 ~~2013~~ June, 2021).

1061 9. NRCS ~~technical guide~~conservation practice standard 484 mulching ~~standard 484~~(June, 2016).

1062 10. NRCS ~~technical guide~~conservation practice standard 606 subsurface drain ~~standard 606~~(~~March, 2014~~

1063 June, 2021).

1064 11. NRCS ~~technical guide~~conservation practice standard 620 underground outlet ~~standard 620~~(~~March, 2014~~

1065 June, 2021).

1066 12. NRCS ~~technical guide~~conservation practice standard 638 water and sediment control basin ~~standard~~

1067 ~~638~~(~~August, 2016~~ January, 2018).

1068 **SECTION 142.** ATCP 50.733 is created to read:

1069 **ATCP 50.733 Habitat diversification.**

1070 **(1) DEFINITION.** In this section, “habitat diversification” refers to the establishment and maintenance of
1071 native vegetative cover in an agricultural setting to provide habitat for wildlife and pollinator species.

1072 **Note:** Habitat diversification practices convert small areas of agricultural fields to native stands of
1073 vegetation that augment normal agricultural operations; for example, establishing prairies strips within an
1074 agricultural field, or converting a small unproductive portion of an agricultural field to native pollinator
1075 habitat. While wildlife and pollinator habitat is the primary resource concern, the intention of these practices
1076 is to also provide water quality, soil health, and air quality benefits.

1077 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs:

1078 (a) The cost of fencing to protect the planted native vegetation.

1079 (b) The cost to establish and manage vegetative cover, or to provide temporary cover until the planting is
1080 established. This may include costs for mulch, seed, and other necessary materials.

1081 (c) The cost to shape, smooth, or prepare the site before establishing native vegetative cover.

1082 **(3) INELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may not reimburse any of the following for
1083 habitat diversification:

1084 (a) Plantings that include introduced species.

1085 (b) Whole-field conversion.

1086 (c) Fertilizing grass plantings.

1087 (d) Pasture plantings.

1088 **(4) DESIGN, CONSTRUCTION, AND MAINTENANCE.** A cost-share grant under s. [ATCP 50.40](#) may not
1089 reimburse habitat diversification costs unless all of the following conditions are met:

1090 (a) The habitat diversification practices comply with all of the following that apply:

1091 1. NRCS conservation practice standard 420 wildlife habitat planting (June, 2020).

1092 2. NRCS conservation practice standard 386 field borders (January, 2017), which must include the
1093 additional criteria to provide wildlife food and cover and pollinator or other beneficial organisms and the
1094 considerations to enhance wildlife and/or pollinator value.

- 1095 3. NRCS conservation practice standard 472 access control (January, 2018).
- 1096 4. NRCS conservation practice standard 393 filter strips (January, 2017), which must include the
1097 considerations for creating, restoring, or enhancing herbaceous habitat for wildlife and beneficial insects
1098 and pollinators.
- 1099 5. NRCS conservation practice standard 382 fence (January, 2014).
- 1100 6. NRCS conservation practice standard 315 herbaceous weed treatment (June 2016).
- 1101 7. NRCS Wisconsin agronomy technical note 5 establishing and maintaining native grasses, forbs and
1102 legumes (April, 2013)
- 1103 8. NRCS Wisconsin guidance document 420 habitat development for pollinators and butterflies (August,
1104 2022)
- 1105 (b) Following establishment of native vegetative cover, management of habitat complies with all of the
1106 following that apply:
- 1107 1. NRCS conservation practice standard 338 prescribed burning (March, 2016).
- 1108 2. NRCS conservation practice standard 314 brush management (April, 2017).
- 1109 3. NRCS conservation practice standard 528 prescribed grazing (April, 2017).
- 1110 4. Guidelines specified in "Pastures for Profit: A Guide to Rotational Grazing," published by the University
1111 of Wisconsin Extension (2014).
- 1112 (c) The landowner agrees to maintain the native vegetation for 10 years.
- 1113 **SECTION 143.** ATCP 50.738 is created to read:
- 1114 **ATCP 50.738 Harvestable buffers.**
- 1115 (1) DEFINITION. In this section, "harvestable buffers" refers to the establishment of grass strips that can be
1116 harvested for livestock forage, and is intended to reduce agricultural runoff from entering an adjacent
1117 waterbody.
- 1118 (2) ELIGIBILITY REQUIREMENTS. To qualify for financial assistance under s ATCP 50.41, all of the
1119 following eligibility criteria must be met:
- 1120 (a) The site is not eligible for the Conservation Reserve Enhancement Program.

1121 (b) The buffer must be adjacent to an eligible waterbody. Eligible waterbodies include perennial and
1122 seasonal streams, creeks and ditches; lakes and ponds; wetlands; sink holes. Gullies or areas where water
1123 runs only after precipitation are ineligible.

1124 (c) Must address a water quality resource concern.

1125 (d) The site has been in agricultural production for 4 out of the previous 6 years.

1126 (e) The planned buffer is at least 30-feet wide and no more than 150-feet wide.

1127 **(3) DESIGN, CONSTRUCTION, AND MAINTENANCE.** Financial assistance under s ATCP 50.41 may not be
1128 provided for harvestable buffers unless all of the following conditions are met:

1129 (a) The harvestable buffer practices comply with all of the following that apply:

1130 1. NRCS technical guide filter strips standard 393 (January, 2017).

1131 2. NRCS Wisconsin agronomy technical note 6 (March, 2013).

1132 3. NRCS Wisconsin agronomy technical note 10 (March, 2017).

1133 4. NRCS technical guide herbaceous weed treatment (June 2016).

1134 (b) The landowner agrees to maintain the vegetative cover for a period defined in the agreement with the
1135 county; the minimum maintenance period shall be 10 years.

1136 **SECTION 144.** ATCP 50.74 is created to read:

1137 **ATCP 50.74 Hydrologic restoration.**

1138 **(1) DEFINITION.** In this section “Hydrologic restoration” means applying combinations of practices
1139 designed to the extent possible to return wetland, stream, and floodplain hydrology to a natural and self-
1140 regulating condition in order to achieve such agricultural goals as to slow the flow of runoff, reduce flood
1141 peaks, restore surface and groundwater interactions, improve water quality, or to increase soil retention,
1142 groundwater infiltration, base flow, upper watershed storage, and flood resilience. These practices can
1143 also be used to reduce or repair erosion and maintain water supply. These benefits are achieved by
1144 improving hydrologic conditions, connections, and functions. Hydrologic restoration practices may
1145 improve and protect fish and wildlife habitat as an incidental benefit. Hydrologic restoration may include

1146 any of the following components:

1147 (a) Diversions under s. ATCP 50.70.

1148 (b) Grade stabilization structures under s. ATCP 50.73.

1149 (c) Streambank or shoreline protection under s. ATCP 50.88.

1150 (d) Stream restoration under s. ATCP 50.882.

1151 (e) Stream crossing under s. ATCP 50.885.

1152 (f) Subsurface drains under s. ATCP 50.90.

1153 (g) Underground outlets under s. ATCP 50.92.

1154 (h) Water and sediment control basins under s. ATCP 50.95.

1155 (i) Waterway systems under s. ATCP 50.96.

1156 (j) Wetland development or restoration under s. ATCP 50.98.

1157 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs
1158 related to hydrologic restoration:

1159 (a) Costs for system components under sub. (1) and (4) that are eligible for reimbursement under this
1160 subchapter.

1161 (b) Costs to establish permanent vegetative cover, or to provide temporary cover pending the
1162 establishment of permanent cover. This may include costs for mulch, fertilizer, seed, and other necessary
1163 materials.

1164 (c) Costs to purchase and install permanent fencing around the project area.

1165 (d) Preparatory shaping and smoothing operations.

1166 (e) Costs for site preparation, grading, shaping and filling.

1167 **(3) INELIGIBLE COSTS.** Except for violations of this chapter or ch. 151, a cost-share grant under s.
1168 ATCP 50.40 may not reimburse costs related to mitigation or correction of a violation of state or local
1169 law.

1170 **(4) DESIGN, CONSTRUCTION, AND MAINTENANCE STANDARDS.** A cost-share grant under s. ATCP

1171 50.40 may not reimburse hydrologic restoration costs unless all of the following conditions are met:

1172 (a) The hydrologic restoration complies with all of the following that apply:

1173 1. NRCS conservation practice standard 315 herbaceous weed treatment (June, 2016).

1174 2. NRCS conservation practice standard 327 conservation cover (January, 2013).

1175 3. NRCS conservation practice standard 332 contour buffer strips (July, 2016).

1176 4. NRCS conservation practice standard 338 prescribed burning (March, 2016).

1177 5. NRCS conservation practice standard 342 critical area planting (January, 2018).

1178 6. NRCS conservation practice standard 356 dike (September, 2016).

1179 7. NRCS conservation practice standard 382 fence (January, 2014).

1180 8. NRCS conservation practice standard 386 field border (January, 2017).

1181 9. NRCS conservation practice standard 391 riparian forest buffer (January, 2013).

1182 10. NRCS conservation practice standard 396 aquatic organism passage (July 2016).

1183 11. NRCS conservation practice standard 472 access control (January, 2018).

1184 12. NRCS conservation practice standard 484 mulching (June, 2016).

1185 13. NRCS conservation practice standard 554 drainage water management (August, 2021).

1186 14. NRCS conservation practice standard 587 structure for water control (January, 2018).

1187 15. NRCS conservation practice standard 604 saturated buffer (June, 2021).

1188 16. NRCS conservation practice standard 654 road/trail/landing closure and treatment (January, 2018).

1189 17. NRCS conservation practice standard 666 forest stand improvement 666 (October, 2017).

1190 (b) The landowner agrees to maintain the hydrologic restoration treatments for 10 years.

1191 **SECTION 145.** ATCP 50.75 (4) (a) 1. and 2. are amended to read:

1192 ATCP 50.75 (4) (a) 1. NRCS ~~technical guide~~conservation practice standard 382 fence standard
1193 ~~382~~(January, 2014).

1194 2. NRCS ~~technical guide~~conservation practice standard 472 access control standard 472(April, 2016)

1195 January, 2018).

1196 **SECTION 146.** ATCP 50.76 (5) (a) 1., 2., 3., 4., 6., and 7 are amended to read:

1197 ATCP 50.76 (5) (a) 1. NRCS ~~technical guide~~conservation practice standard 574 spring development
1198 ~~standard 574~~(~~March, 2014~~ August, 2021).

1199 2. NRCS ~~technical guide~~conservation practice standard 614 watering facility ~~standard 614~~(~~October, 2014~~
1200 June, 2021).

1201 3. NRCS ~~technical guide~~conservation practice standard 642 water well ~~standard 642~~(~~October, 2014~~ August,
1202 2021).

1203 4. NRCS~~technical guide~~ conservation practice standard 516 livestock pipeline ~~standard 516~~(~~December,~~
1204 ~~2016~~ June, 2021).

1205 6. NRCS~~technical guide~~ conservation practice standard 561 heavy use area protection ~~standard~~
1206 ~~561~~(~~August, 2015~~ November, 2022).

1207 7. NRCS~~technical guide~~ conservation practice standard 533 pumping plant ~~standard 533~~(~~July, 2016~~ August,
1208 2021).

1209 **SECTION 147.** ATCP 50.77 (4) (a) 1., 2., 3., 4., 5., 6., and 7. are amended to read:

1210 ATCP 50.77 (4) (a) 1. 1. *Milking Center Wastewater Guidelines*, a companion document to Wisconsin
1211 NRCS conservation practice standard 629 (June, 2009).

1212 **Note:** Copies of *Milking Center Wastewater Guidelines*, a companion document to Wisconsin NRCS
1213 conservation practice standard 629 (June, 2009) are on file with the department and the legislative reference
1214 bureau and can be obtained by visiting the department website at:

1215 https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx..

1216 2. NRCS ~~technical guide~~conservation practice standard 627 wastewater treatment, milk house standard
1217 ~~629~~(~~January, 2014~~ November, 2022).

1218 3. NRCS ~~technical guide~~conservation practice standard 313 waste storage facility ~~standard 313~~(~~January,~~
1219 ~~2014~~ October, 2017).

1220 4. NRCS ~~technical guide~~ conservation practice standard 634 waste transfer ~~standard 634~~ (January, 2014
1221 November, 2022).

1222 5. NRCS ~~technical guide~~ conservation practice standard 590 nutrient management ~~standard 590~~ (December,
1223 2015).

1224 6. NRCS ~~technical guide~~ conservation practice standard 635 vegetated treatment area ~~standard 635~~ (October,
1225 ~~2014~~ September, 2016).

1226 7. NRCS ~~technical guide~~ conservation practice standard 656 constructed wetland ~~standard 656~~ (December,
1227 2016).

1228 **SECTION 148.** ATCP 50.78 (3) (a) is amended to read:

1229 ATCP 50.78 (3) (a) The nutrient management practice complies with NRCS ~~technical guide~~ conservation
1230 practice standard 590 nutrient management ~~standard 590~~ (December, 2015).

1231 **Note:** The NRCS ~~technical guide~~ conservation practice standard 590 nutrient management ~~standard 590~~
1232 can be obtained by visiting the department website at:

1233 https://datcp.wi.gov/Pages/Programs_Services/ATCP50.aspx.

1234 **SECTION 149.** ATCP 50.785 is created to read:

1235 **ATCP 50.785 Nutrient treatment system. (1) DEFINITION.** In this section “Nutrient treatment system”
1236 means a system installed to intercept subsurface (tile) flow, groundwater, or surface runoff flow to reduce
1237 the concentration of phosphorous or nitrate nitrogen and minimize the movement of these nutrients to
1238 surface water and/or groundwater.

1239 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs
1240 related to nutrient treatment systems:

1241 (a) Costs to design or install the system.

1242 (b) Costs to purchase and install necessary underground pipe, subsurface drain tile, outlets and other
1243 necessary structures for water control or mechanical outlets.

1244 (c) Costs to remove obstructions, if necessary for the installation of an effective nutrient management

1245 system.

1246 (d) Costs to establish permanent vegetative cover, or to provide temporary cover until permanent cover is
1247 established. This may include costs for mulch, fertilizer, and other necessary materials.

1248 (e) Cost to install permanent fencing to protect the nutrient treatment system.

1249 (f) Other nutrient treatment systems, approved by the department, that are needed to meet identified water
1250 quality objectives.

1251 **(3) INELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may not reimburse any of the following
1252 costs related to nutrient treatment systems:

1253 (a) Costs to design a nutrient treatment system that is not installed.

1254 (b) Costs of a proposed practice, to the extent that those costs exceed the cost of an equally effective
1255 alternative.

1256 (c) Costs for any system, component, or practice that is not required to correct an identified water pollution
1257 hazard.

1258 (d) Costs to install a nutrient treatment system in urban settings or that does not address agricultural runoff
1259 or drainage.

1260 **(4) DESIGN, CONSTRUCTION, AND MAINTENANCE STANDARDS.** A cost-share grant under s. ATCP 50.40
1261 may not reimburse nutrient treatment systems cost unless all of the following conditions are met:

1262 (a) The nutrient treatment systems comply with all of the following that apply:

1263 1. NRCS conservation practice standard 605 denitrifying bioreactor (June, 2021).

1264 2. NRCS conservation practice standard 782 phosphorous removal system (May, 2019).

1265 3. NRCS conservation practice standard 606 subsurface drain (June, 2021)

1266 4. NRCS conservation practice standard 342 critical area planting standard (January, 2018).

1267 5. NRCS conservation practice standard 484 mulching (June, 2016).

1268 6. NRCS conservation practice standard 554 drainage water management (August, 2021).

1269 7. NRCS conservation practice standard 587 structure for water control (January, 2018).

1270 8. NRCS conservation practice standard 604 saturated buffer (June, 2021).

1271 (b) The landowner agrees to maintain the nutrient treatment system for 10 years unless farming operations
1272 on the affected land are discontinued.

1273 **SECTION 150.** ATCP 50.79 (3) (a) 1. is amended to read:

1274 ATCP 50.79 (3) (a) 1. NRCS ~~technical guide~~ conservation practice standard 595 integrated pest
1275 management conservation system standard 595 (January, 2013-2022).

1276 **SECTION 151.** ATCP 50.79 (3) (a) 1m. is created:

1277 ATCP 50.79 (3) (a) 1m. NRCS conservation practice standard 309 agrichemical handling facility
1278 (September, 2021)

1279 **SECTION 152.** ATCP 50.80 (1) (Note) is repealed.

1280 **SECTION 153.** ATCP 50.80 (2) and (2) (c) and (d) are amended to read:

1281 ATCP 50.80 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of
1282 replacing animal lots or pastures, ~~or~~ establishing a prescribed grazing system on croplands, or improving
1283 an existing prescribed grazing system that contributes sediments, nutrients, or pesticides to a water resource.

1284 This may include any of the following costs:

1285 (c) The cost to establish, or enhance through interseeding or weed management - good seeding stands for
1286 pasture and hayland planting.

1287 (d) The cost to establish a livestock watering facility. This may include pipeline and pasture watering
1288 systems, wells, spring developments, winter watering facilities such as geothermal or heated jug, heavy use
1289 protection area, and portable watering systems such as pumps, pipes, and tanks.

1290 **SECTION 154.** ATCP 50.80 (2) (g) is created to read:

1291 ATCP 50.80 (2) (g) The costs for development of a prescribed grazing plan.

1292 **SECTION 155.** ATCP 50.80 (3) (a) 1., 2., 3., 4., 5., 6., and 8., are amended to read:

1293 ATCP 50.80 (3) (a) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting

1294 ~~standard 342~~(~~August, 2016~~ January, 2018).

1295 2. NRCS ~~technical guide~~conservation practice standard 512 forage and biomass planting ~~standard~~
1296 ~~512~~(January, 2013).

1297 3. NRCS ~~technical guide~~conservation practice standard 472 access control ~~standard 472~~(~~April, 2016~~
1298 January, 2018).

1299 4. NRCS ~~technical guide~~conservation practice standard 580 streambank and shoreline protection ~~standard~~
1300 ~~580~~(~~August, 2013~~ September, 2021).

1301 5. NRCS ~~technical guide~~conservation practice standard 561 heavy use area protection ~~standard 561~~(~~August,~~
1302 ~~2015~~ November, 2022).

1303 6. NRCS ~~technical guide~~conservation practice standard 528 prescribed grazing ~~standard (man-aged~~
1304 ~~grazing-Wisconsin)~~ ~~528~~(~~December, 2008~~ April, 2017).

1305 8. NRCS ~~technical guide~~conservation practice standard 575 trails and walkways ~~standard 575~~(~~April, 2016~~
1306 August, 2021).

1307 **SECTION 156.** ATCP 50.80 (3) (a) 10. and 11. are created:

1308 ATCP 50.80 (3) (a) 10. NRCS conservation practice standard 315 herbaceous weed treatment (June
1309 2016).

1310 ATCP 50.80 (3) (a) 11. NRCS conservation practice standard 314 brush management (April 2017).

1311 **SECTION 157.** ATCP 50.81 (5) (a) is amended to read:

1312 ATCP 50.81 (5) (a) The relocation or abandonment complies with the NRCS ~~technical guide~~conservation
1313 practice standards for the conservation practices in this subchapter.

1314 **SECTION 158.** ATCP 50.82 (2) (a) 1m. is created to read:

1315 ATCP 50.82 (2) (a) 1m. Strip-till practices.

1316 **SECTION 159.** ATCP 50.82 (2) (a) 2., 3., and 4., (b), and (3) are repealed.

1317 **SECTION 160.** ATCP 50.82 (4) (c) is amended to read:

1318 ATCP 50.82 (4) (c) The residue management complies with ~~all of the following applicable standards:~~

1319 ~~4. NRCS technical guide conservation practice standard 329~~ residue and tillage management—no till/strip
1320 ~~till/direct seed standard 329~~ (January, 2017 2018).

1321 **SECTION 161.** ATCP 50.82 (4) (c) 2., 3., and 4. are repealed.

1322 **SECTION 162.** ATCP 50.83 (3) (a) 1., 2., 3., 4., 5., 6., and 7. are amended to read:

1323 ATCP 50.83 (3) (a) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting
1324 ~~standard 342~~ (~~August, 2016~~ January 2018).

1325 2. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

1326 3. NRCS ~~technical guide~~conservation practice standard 386 field border ~~standard 386~~(January, 2017).

1327 4. NRCS ~~technical guide~~conservation practice standard 393 filter strip ~~standard 393~~(January, 2017).

1328 5. NRCS ~~technical guide~~conservation practice standard 472 access control ~~standard 472~~(~~April, 2016~~
1329 January, 2018).

1330 6. NRCS ~~technical guide~~conservation practice standard 484 mulching ~~standard 484~~(June, 2016).

1331 7. NRCS ~~technical guide~~conservation practice standard 391 riparian forest buffer ~~standard 391~~(January,
1332 2013).

1333 **SECTION 163.** ATCP 50.83 (3) (a) 8. is repealed.

1334 **SECTION 164.** ATCP 50.83 (3) (a) 9. is amended to read:

1335 ATCP 50.83 (3) (a) 9. NRCS ~~technical guide~~conservation practice standard 420 ~~upland~~wildlife habitat
1336 ~~management planting standard 645~~(~~January 2013~~ June, 2020).

1337 **SECTION 165.** ATCP 50.84 (1) (a) is created to read:

1338 ATCP 50.84 (1) (a) “Animal housing” means a building or structure used exclusively for the housing,
1339 raising, or sheltering of animals.

1340 **SECTION 166.** ATCP 50.84 (1) (a) is amended to read and renumbered to (am):

1341 ATCP 50.84 (1) (am) “Roof” means a weather-proof covering that shields an animal lot or manure storage
1342 structure from precipitation, and includes the structure supporting that weather-proof covering. ~~“Roof” does~~
1343 ~~not include, except in the case of a manure storage structure, a covering over an enclosed structure if the~~

1344 ~~sum of the length of the walls of the structure exceeds 50% of the perimeter of the covering. If a structure~~
1345 ~~includes 2 or more square or rectangular areas, the ratio of wall length to covering perimeter shall be~~
1346 ~~separately calculated for each square or rectangular area, excluding common sides.~~

1347 **SECTION 167.** ATCP 50.84 (1) (b) and (4) (a) and (b) are repealed.

1348 **SECTION 168.** ATCP 50.84 (4) and (5) (a) and (e) are amended to read:

1349 ATCP 50.84 **(4) INELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may not reimburse ~~any of the~~
1350 ~~following:~~

1351 ~~(a) Costs to install walls or to enclose a roofed area.~~

1352 ~~(b) Costs to design or construct a building or structure other than a roof.~~

1353 ~~(c) Costs the costs to install a roof over feed storage, machinery storage, or animal housing areas, except as~~
1354 ~~provided in sub. (3).~~

1355 **(5) (a)** The roof complies with NRCS ~~technical guide~~ conservation practice standard 367 roofs and covers
1356 ~~standard 367~~ (April, 2016).

1357 **(e)** The landowner agrees not to convert a roofed animal lot structure, cost-shared under this chapter, for
1358 use other than as an animal lot for the duration of the maintenance agreement.

1359 **SECTION 169.** ATCP 50.85 (4) (a) 1. and 2. are amended to read:

1360 ATCP 50.85 **(4) (a) 1.** NRCS ~~technical guide~~ conservation practice standard 558 roof runoff structure
1361 ~~standard 558~~ (September, ~~2010~~ 2021).

1362 **2.** NRCS ~~technical guide~~ conservation practice standard 620 underground outlet ~~standard 620~~ (March, 2014
1363 June, 2021).

1364 **SECTION 170.** ATCP 50.86 (4) (b) 1., 2., 3., 4., 5., 6., and 7. are amended to read:

1365 ATCP 50.86 **(4) (b) 1.** NRCS ~~technical guide~~ conservation practice standard 342 critical area planting
1366 ~~standard 342~~ (August, 2016 January, 2018).

1367 **2.** NRCS ~~technical guide~~ conservation practice standard 350 sediment basin ~~standard 350~~ (August, 2016).

1368 **3.** NRCS ~~technical guide~~ conservation practice standard 634 waste transfer ~~standard 634~~ (January, 2014

1369 November, 2022).

1370 4. NRCS ~~technical guide~~ conservation practice standard 382 fence ~~standard 382~~ (January, 2014).

1371 5. NRCS ~~technical guide~~ conservation practice standard 635 vegetated treatment area ~~standard 635~~ (October,
1372 ~~2014~~ September, 2016).

1373 6. NRCS ~~technical guide~~ conservation practice standard 561 heavy use area protection ~~standard 561~~ (August,
1374 ~~2015~~ November, 2022).

1375 7. NRCS ~~technical guide~~ conservation practice standard 620 underground outlet ~~standard 620~~ (March, 2014
1376 June, 2021).

1377 **SECTION 171.** ATCP 50.86 (4) (b) 9. is created to read:

1378 ATCP 50.86 (4) (b) 9. NRCS conservation practice standard 632 waste separation facility (November,
1379 2022).

1380 **SECTION 172.** ATCP 50.87 (4) (a) 1., 2., and 3. are amended to read:

1381 ATCP 50.87 (4) (a) 1. NRCS ~~technical guide~~ conservation practice standard 527 sinkhole treatment ~~standard~~
1382 ~~527~~ (September, 2021).

1383 2. NRCS ~~technical guide~~ conservation practice standard 362 diversion ~~standard 362~~ (August, 2016).

1384 3. NRCS ~~technical guide~~ conservation practice standard 412 grassed waterway ~~standard 412~~ (July, 2016
1385 August, 2021).

1386 **SECTION 173.** ATCP 50.88 (1) (cg), (cr), and (em) are created to read:

1387 ATCP 50.88 (1) (cg) Livestock fencing under s. ATCP 50.75.

1388 (cr) Livestock watering facilities under s. ATCP 50.76.

1389 (em) Stream crossing under s. ATCP 50.885.

1390 **SECTION 174.** ATCP 50.88 (2) (a) is amended to read:

1391 ATCP 50.88 (2) (a) Costs to install new soil bioengineering and structural treatments including rock riprap.

1392 Wood chunks, unsorted demolition material, brick, plaster, blacktop, and other materials that may produce

1393 leachates may not be used as riprap. A cost-share grant may reimburse costs for rock and timber riprap or

1394 lunkers used to establish fish habitat, in combination with the restoration of a riparian buffer and as part of
1395 a streambank or shoreline protection scheme, provided that reimbursement for fish habitat does not exceed
1396 25% of the cost-share grant.

1397 ~~**Note:** Lunker structures, or rock and timber riprap, are sometimes used to create fish habitat.~~

1398 **SECTION 175.** ATCP 50.88 (2) (c) (Note) is repealed.

1399 **SECTION 176.** ATCP 50.88 (3) (a) 1., 2., 3., 4., and 5. are amended to read:

1400 ATCP 50.88 (3) (a) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting
1401 ~~standard 342~~ (August, 2016 January, 2018).

1402 2. NRCS ~~technical guide~~ conservation practice standard 382 fence ~~standard 382~~ (January, 2014).

1403 3. NRCS ~~technical guide~~ conservation practice standard 580 streambank and shoreline protection ~~standard~~
1404 ~~580~~ (August, 2013 September, 2021).

1405 4. NRCS ~~technical guide~~ conservation practice standard 612 tree/shrub establishment ~~standard 612~~ (July,
1406 ~~2014~~ January, 2018).

1407 5. NRCS ~~technical guide~~ conservation practice standard 561 heavy use area protection ~~standard 561~~ (August,
1408 ~~2015~~ November, 2022).

1409 **SECTION 177.** ATCP 50.88 (3) (a) 6., 7., 8., and 9. are created to read:

1410 ATCP 50.88 (3) (a) 6. NRCS conservation practice standard 326 clearing and snagging (June, 2016)

1411 7. NRCS conservation practice standard 395 stream habitat improvement and management (September,
1412 2021)

1413 8. NRCS conservation practice standard 582 open channel (September, 2021)

1414 9. NRCS conservation practice standard 584 channel bed stabilization (September, 2021)

1415 **SECTION 178.** ATCP 50.882 is created to read:

1416 **ATCP 50.882 Stream restoration.**

1417 **(1) DEFINITION.** In this section “Stream restoration” means applying combinations of practices designed
1418 to the extent possible to restore or repair healthy channel conditions, connections, and functions adjacent

1419 to or upstream from erosion-prone agricultural lands or to address other resource concerns. These practices
1420 shall be installed to slow the flow of runoff, reduce flood peaks, restore surface and groundwater
1421 interactions, improve water quality, or to increase soil retention, groundwater infiltration, base flow, upper
1422 watershed storage, and flood resilience. These practices can also be used to reduce or repair erosion,
1423 maintain water supply, maintain sediment transport continuity, restore natural drainage, and stabilize
1424 banks. Stream restoration practices may improve fish and wildlife habitat as an incidental benefit. Stream
1425 restoration may include any of the following components:

1426 (a) Hydrologic restoration under s. ATCP 50.74.

1427 (b) Streambank or shoreline protection under s. ATCP 50.88.

1428 (c) Stream crossing under s. ATCP 50.885.

1429 (d) Waterway systems under s. ATCP 50.96.

1430 (e) Wetland development or restoration under s. ATCP 50.98.

1431 **(2) ELIGIBLE COSTS.** A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs
1432 related to stream restoration:

1433 (a) Costs for system components under sub. (1) and (4) that are eligible for reimbursement under this
1434 subchapter.

1435 (b) Costs to establish permanent vegetative cover, or to provide temporary cover pending the
1436 establishment of permanent cover. This may include costs for mulch, fertilizer, seed, and other necessary
1437 materials.

1438 (c) Costs to purchase and install permanent fencing around the critical area.

1439 (d) Preparatory shaping and smoothing operations.

1440 (e) Costs for site preparation, grading, shaping and filling.

1441 **(3) INELIGIBLE COSTS.** Except for violations of this chapter or ch. 151, a cost-share grant under s. ATCP
1442 50.40 may not reimburse costs related to mitigation or correction of a violation of state or local law.

1443 **(4) DESIGN, CONSTRUCTION, AND MAINTENANCE STANDARDS.** A cost-share grant under s. ATCP 50.40

1444 may not reimburse stream restoration costs unless all of the following conditions are met:

1445 (a) The stream restoration complies with all of the following that apply:

1446 1. NRCS conservation practice standard 315 herbaceous weed treatment (June, 2016).

1447 2. NRCS conservation practice standard 327 conservation cover (January, 2013).

1448 3. NRCS conservation practice standard 342 critical area planting standard (January, 2018).

1449 4. NRCS conservation practice standard 356 dike (September, 2016).

1450 5. NRCS conservation practice standard 382 fence (January, 2014).

1451 6. NRCS conservation practice standard 391 riparian forest buffer (January, 2013).

1452 7. NRCS conservation practice standard 395 stream habitat improvement and management (September,

1453 2021).

1454 8. NRCS conservation practice standard 396 aquatic organism passage (July 2016).

1455 9. NRCS conservation practice standard 472 access control (January, 2018).

1456 10. NRCS conservation practice standard 484 mulching (June, 2016).

1457 11. NRCS conservation practice standard 554 drainage water management (August, 2021).

1458 12. NRCS conservation practice standard 582 open channel (September, 2021).

1459 13. NRCS conservation practice standard 584 channel bed stabilization (September, 2021).

1460 14. NRCS conservation practice standard 587 structure for water control (January, 2018).

1461 15. NRCS conservation practice standard 604 saturated buffer (June, 2021).

1462 16. NRCS conservation practice standard 643 restoration of rare or declining natural communities (May,

1463 2014).

1464 (b) The landowner agrees to maintain the stream restoration treatments for 10 years.

1465 **SECTION 179.** ATCP 50.885 (1) and (4) (a) 1., 2., 3., and 4. is amended to read:

1466 ATCP 50.885 (1) DEFINITION. In this section, "stream crossing" means a road or pathway which confines

1467 or directs the movement of livestock, farm equipment, or vehicular traffic over or through (ford crossing)

1468 a stream, and which is designed and installed to improve water quality, reduce erosion, protect an installed
1469 practice, or control livestock access to a stream.

1470 (4) (a) 1. NRCS ~~technical guide~~ conservation practice standard 560 ~~access road standard 560~~ (October,
1471 2014-January, 2018).

1472 2. NRCS ~~technical guide~~ conservation practice standard 580 ~~streambank and shoreline protection standard~~
1473 580 (August, 2013-September, 2021).

1474 3. NRCS ~~technical guide~~ conservation practice standard 382 ~~fence standard 382~~ (January, 2014).

1475 4. NRCS ~~technical guide~~ conservation practice standard 578 ~~stream crossing standard 578~~ (March, 2015
1476 January, 2018).

1477 **SECTION 180.** ATCP 50.89 (3) (b) 1. and 2. and (c) are amended to read:

1478 ATCP 50.89 (3) (b) 1. NRCS ~~technical guide~~ conservation practice standard 500 ~~obstruction removal~~
1479 standard 500 (July, 2016 June, 2021).

1480 2. NRCS ~~technical guide~~ conservation practice standard 585 ~~stripcropping standard 585~~ (June, 2016).

1481 (c) The landowner agrees to maintain the stripcropping ~~for 10 years unless farming operations on the~~
1482 ~~affected land are discontinued~~ in each cropping season for which cost-sharing is provided.

1483 **SECTION 181.** ATCP 50.90 (2), (3) (a) and (b) 1. and 2. are amended to read:

1484 ATCP 50.90 (2) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse the cost of
1485 designing and constructing a subsurface drain as part of a manure storage system, barnyard runoff control
1486 system, feed storage runoff control system, ~~or~~ erosion control system, or as part of a nutrient treatment
1487 system.

1488 (3) (a) The subsurface drain is a necessary component of a manure storage system, barnyard runoff control
1489 system, feed storage runoff control system, ~~or~~ erosion control system, or as part of a nitrate, nitrogen, or
1490 phosphorous removal system.

1491 (b) 1. NRCS ~~technical guide~~ conservation practice standard 606 ~~subsurface drain standard 606~~ (March, 2014
1492 June, 2021).

1493 2. NRCS ~~technical guide~~ conservation practice standard 620 underground outlet standard 620 (~~March, 2014~~
1494 June, 2021).

1495 **SECTION 182.** ATCP 50.91 (3) (b) 1., 2., 3., 4., 5., 6., 7., and 8. are amended to read:

1496 ATCP 50.91 (3) (b) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting
1497 ~~standard 342~~ (~~August, 2016~~ January, 2018).

1498 2. NRCS ~~technical guide~~ conservation practice standard 412 grassed waterway ~~standard 412~~ (~~July, 2016~~
1499 August, 2021).

1500 3. NRCS ~~technical guide~~ conservation practice standard 468 lined waterway or outlet ~~standard 468~~ (~~March,~~
1501 ~~2013~~ June, 2021).

1502 4. NRCS ~~technical guide~~ conservation practice standard 500 obstruction removal ~~standard 500~~ (~~July, 2016~~
1503 June, 2021).

1504 5. NRCS ~~technical guide~~ conservation practice standard 600 terrace ~~standard 600~~ (~~March, 2015~~ August,
1505 2021).

1506 6. NRCS ~~technical guide~~ conservation practice standard 606 subsurface drain ~~standard 606~~ (~~March, 2014~~
1507 June, 2021).

1508 7. NRCS ~~technical guide~~ conservation practice standard 620 underground outlet ~~standard 620~~ (~~March, 2014~~
1509 June, 2021).

1510 8. NRCS ~~technical guide~~ conservation practice standard 638 water and sediment control basin ~~standard~~
1511 ~~638~~ (~~August, 2016~~ January, 2018).

1512 **SECTION 183.** ATCP 50.92 (3) (b) 1. and 2. are amended to read:

1513 ATCP 50.92 (3) (b) 1. NRCS ~~technical guide~~ conservation practice standard 606 subsurface drain ~~standard~~
1514 ~~606~~ (~~March, 2014~~ June, 2021).

1515 2. NRCS ~~technical guide~~ conservation practice standard 620 underground outlet ~~standard 620~~ (~~March, 2014~~
1516 June, 2021).

1517 **SECTION 184.** ATCP 50.925 is created to read:

1518 **ATCP 50.925 Verification of Depth to Bedrock**

1519 (1) DEFINITION. In this section, “verification of depth to bedrock” means investigative methods for infield
1520 depth to bedrock verification for fields receiving mechanical applications of manure.

1521 (2) COST-SHARE ELIGIBILITY. A cost-share grant under s. ATCP 50.40 may reimburse a landowner for the
1522 costs of verifying depth to bedrock in an area subject to s. NR 151.075.

1523 (3) ELIGIBLE COSTS. A cost-share grant under s. ATCP 50.40 may reimburse any of the following costs
1524 related to verification of depth to bedrock:

1525 (a) Costs to conduct a site assessment.

1526 (b) Costs to prepare the plan for verification of depth to bedrock.

1527 (c) Costs associated with implementation of the plan for verification of depth to bedrock using intrusive
1528 methods.

1529 (d) Costs associated with implementation of the plan for verification of depth to bedrock using
1530 geophysical methods.

1531 (e) Costs associated with ground truthing data collected through geophysical methods.

1532 (f) Costs to develop field maps as defined in the technical standard.

1533 (g) Costs to backfill or abandon boreholes and test pits.

1534 (4) Ineligible costs include costs to become a qualified verifier.

1535 (5) PLANS AND SPECIFICATIONS. A cost-share grant may not reimburse any costs for verification of
1536 depth to bedrock unless all of the following conditions are met:

1537 (a) The verification of depth to bedrock complies with the department technical standard 01 verification
1538 of depth to bedrock (July, 2021).

1539 (b) The following that apply are completed and submitted to the department:

1540 1. Field data reporting forms

1541 **Note:** Field data reporting forms in par. 1. should identify the data listed in Attachment 3 of the department
1542 technical standard 01 verification of depth to bedrock (July, 2021). A template form for the intrusive

1543 verification method can be obtained at:

1544 https://datcp.wi.gov/Pages/Programs_Services/DepthToBedrockStandard.

1545 2. Geophysical data map, if applicable, with legend, unit and ground truthing locations

1546 3. Borehole abandonment forms

1547 4. Name and qualifications of individual(s) analyzing the field data

1548 5. A computer file with tabulated data in spreadsheet format that identifies latitude/longitude coordinates

1549 as recorded during the field effort

1550 6. Field maps depicting intrusive method data points and depth to bedrock, including information below:

1551 a. Borings and/or geophysical survey locations by recording latitude/longitude coordinates of verification

1552 borings and geophysical survey locations using the WGS84 coordinate system

1553 b. Field location, field boundary, acres, field identification number, scale, all borings/and or geophysical

1554 survey locations using the above requirements and a North directional arrow.

1555 **SECTION 185.** ATCP 50.93 (1) and (4) (a) are amended to read:

1556 ATCP 50.93 (1) DEFINITION. In this section, "waste transfer system" means components such as pumps,

1557 pipes, conduits, valves, and other structures installed to convey manure, feed storage, and milking center

1558 wastes from buildings and animal feeding operations to a storage structure, loading area, or treatment area.

1559 (4) (a) The waste transfer system complies with ~~all of the following that apply:~~

1560 ~~1- NRCS technical guide conservation practice standard 634 waste transfer ~~standard 634~~ (November,~~

1561 2022).

1562 **SECTION 186.** ATCP 50.93 (4) (a) 2. is repealed.

1563 **SECTION 187.** ATCP 50.94 (1) and (3) (a) 1., 2., 3., 4., and 5. are amended to read:

1564 ATCP 50.94 (1) DEFINITION. In this section, "wastewater treatment strip" means an area of herbaceous

1565 vegetation that is used as part of an agricultural waste management system to remove pollutants from animal

1566 lot runoff or wastewater, such as runoff or wastewater from a milking center or feed storage area.

1567 (3) (a) 1. NRCS ~~technical guide~~ conservation practice standard 342 critical area planting ~~standard~~

1568 ~~342(August, 2016~~ January, 2018).

1569 2. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

1570 3. NRCS ~~technical guide~~conservation practice standard 472 access control ~~standard 472~~(~~April, 2016~~
1571 January, 2018).

1572 4. NRCS ~~technical guide~~conservation practice standard 484 mulching ~~standard 484~~(June, 2016).

1573 5. NRCS ~~technical guide~~conservation practice standard 635 vegetated treatment area ~~standard 635~~(~~October,~~
1574 2014 September, 2016).

1575 **SECTION 188.** ATCP 50.95 (3) (a) 1., 2., 3., and 4. are amended to read:

1576 ATCP 50.95 (3) (a) 1. NRCS ~~technical guide~~conservation practice standard 342 critical area planting
1577 ~~standard 342~~(~~August, 2016~~ January, 2018).

1578 2. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

1579 3. NRCS ~~technical guide~~conservation practice standard 638 water and sediment control basin ~~standard~~
1580 ~~638~~(~~August, 2016~~ January, 2018).

1581 4. NRCS ~~technical guide~~conservation practice standard 620 underground outlet ~~standard 620~~(~~March, 2014~~
1582 June, 2021).

1583 **SECTION 189.** ATCP 50.96 (3) (b) 1., 2., 3., 4., 5., 6., 7., and 8. are amended to read:

1584 ATCP 50.96 (3) (b) 1. NRCS ~~technical guide~~conservation practice standard 342 critical area planting
1585 ~~standard 342~~(~~August, 2016~~ January, 2018).

1586 2. NRCS ~~technical guide~~conservation practice standard 382 fence ~~standard 382~~(January, 2014).

1587 3. NRCS ~~technical guide~~conservation practice standard 412 grassed waterway ~~standard 412~~(~~July,~~
1588 2016 August, 2021).

1589 4. NRCS ~~technical guide~~conservation practice standard 484 mulching ~~standard 484~~(June, 2016).

1590 5. NRCS ~~technical guide~~conservation practice standard 500 obstruction removal ~~standard 500~~(~~July, 2016~~
1591 June, 2021).

1592 6. NRCS ~~technical guide~~conservation practice standard 606 subsurface drain ~~standard 606~~(~~March, 2014~~

1593 June, 2021).

1594 7. NRCS ~~technical guide~~ conservation practice standard 620 underground outlet ~~standard 620~~ (March, 2014
1595 June, 2021).

1596 8. NRCS ~~technical guide~~ conservation practice standard 468 lined waterway or outlet ~~standard 468~~ (March,
1597 ~~2013~~ June, 2021).

1598 **SECTION 190.** ATCP 50.97 (3) (a) is amended to read:

1599 ATCP 50.97 (3) (a) NRCS ~~technical guide~~ conservation practice standard 351 well decommissioning
1600 ~~standard 351~~ (October, 2014 August 2021).

1601 **SECTION 191.** ATCP 50.98 (1) is amended to read:

1602 ATCP 50.98 (1) DEFINITION. In this section, "wetland development or restoration" means ~~the construction~~
1603 ~~of berms, or the destruction of tile line or drainage ditch functions, to create or restore~~ creating or restoring
1604 hydrologic or other conditions suitable for wetland vegetation and/or other important wetland functions.
1605 Construction of berms, destroying of tile lines or drainage ditch functions, or excavating areas (scrapes) are
1606 among common practices.

1607 **SECTION 192.** ATCP 50.98 (2) (e) is created to read:

1608 ATCP 50.98 (2) (e) Costs for earth moving to construct scrapes.

1609 **SECTION 193.** ATCP 50.98 (3) (a) is amended to read:

1610 ATCP 50.98 (3) (a) The wetland development or restoration complies with all of the following that apply:

1611 1. NRCS ~~technical guide~~ conservation practice standard 657 wetland restoration ~~standard 657~~ (September,
1612 ~~2016~~ February, 2020).

1613 **SECTION 194.** ATCP 50.98 (3) (a) 2. is created to read:

1614 ATCP 50.98 (3) (a) 2. NRCS conservation practice standard 658 wetland creation (October, 2016).

1615 **SECTION 195.** EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day
1616 of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22

1617 (2) (intro.), Stats.

(END OF RULE TEXT)

Dated this _____ day of _____, 2023

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By: Randy Romanski, Secretary