



# ATCP 50

## DATCP Program Oversight: LWRM Planning, Local Regulation and Conservation Engineering

ARM Pub 227- 03/14

The latest revisions to ATCP 50 are effective on May 1, 2014. These revisions are primarily designed to implement new and modified farm runoff control standards adopted by the Department of Natural Resources in 2011 (2011 DNR standards). This summary focuses on changes to ATCP 50 involving DATCP oversight of land and water resource management (LWRM) plans, local regulation, and engineering practitioners. It includes updates to program requirements to reflect changes in farming and conservation technology, simplify procedures where appropriate, and limit extension of oversight responsibilities in limited areas.

### **\*NEW\* to ATCP 50**

#### **LWRM PLANS**

This rule modifies the required content of county plans to increase accountability, facilitate coordination with Department of Natural Resources (DNR), and support incorporation of elements that satisfy planning requirements under Section 319 of the Clean Water Act.

#### **LOCAL REGULATION**

##### **Livestock Facility Siting**

This rule adds provisions to ensure compliance with requirements of the livestock facility siting law (siting law). See s. 93.90, Stats. and Ch. ATCP 51, Wis. Admin. Code. It makes clear that counties can enforce water quality standards through a siting permit even if cost-sharing is not provided. Consistent with provisions in the siting law, a county cannot require a permit under its manure storage ordinance if it also requires a livestock facility to obtain a permit under a county siting ordinance.

##### **Manure Storage Ordinances**

###### ***Technical***

The rule updates standards for manure storage ordinances to reflect changes in the management of manure, including the use of storage for non-manure wastes such as feed leachate and milking center waste, and revisions of applicable technical standards to reflect those changes. It incorporates the following requirements including many local ordinances: permit applicants must submit a construction plan, and a drawing reflecting design changes made during construction and documentation certifying that the system was installed in accordance with technical standards.

###### ***Permitting Procedures***

To account for the more complicated designs of today's storage facilities, the rule recommends providing sufficient time for permit application reviews (e.g. 30-60 days). It also recommends that local governments coordinate permit reviews with other government programs such as DNR that perform the same task.

###### ***Department Oversight***

While local governments are no longer required to secure DATCP review of proposed ordinances, they can still request such assistance if they choose to. DATCP will review new and amended ordinances for consistency with state law. DATCP may also require that local governments use a department-approved application for permitting the construction or closure of a manure storage system or structure.

### More Stringent Regulation

This rule makes clear that state approval under s. 92.15, Stats., is required for more stringent water quality regulation, even if a government meets the separate requirements imposed under the siting law (ATCP 51).

## **CONSERVATION ENGINEERING**

### Practitioner Certification

Under s. 92.18, Stats. DATCP is directed to establish, to the extent possible, requirements for certification of engineering practitioners in conformance with the federal engineering approval system operated by the Natural Resources Conservation Service (NRCS). The rule creates a more flexible and responsive framework for certifying engineering practitioners that better matches the federal system, and ultimately ensures maximum capacity of county and other field staff to provide technical assistance and engineering support for farmers and other landowners. Since the rule allows for a broader range of certification including urban conservation practices, DATCP changed the certification designation from “agricultural” to “conservation” engineering practitioner.

The rule better defines the scope of practice of a certified practitioner to include planning activities, such as site inventory and evaluation; certification that designs meet applicable technical standards; and certification that conservation practices have been installed according to the approved design and the applicable standards.

### Engineering Certification/Job Approval Form

In place of a certification form frozen in ATCP 50, which limited DATCP’s capacity to keep its form consistent with NRCS’s updates to the companion job approval form, this rule decouples the DATCP form from the rule, and creates a simplified process to grant certification for any practice authorized by NRCS and DNR as long as DATCP follows requirements specified in the rule for changing the form.

### State Conservation Engineer

To improve program delivery and coordination, the rule enables DATCP to designate a state soil and water conservation engineer to function similar to the NRCS state engineer. The state engineering position oversees the work of DATCP’s field engineers and provides high-level engineering approval.

### Quality Control

This rule also imposes quality control measures. It strengthens DATCP’s capacity to impose training guidelines and requirements. By requiring multiple signatures on project documentation for more complex jobs (with ratings of III or more), it ensures the quality of engineering work by preventing one person from certifying all facets of a project. For practices requiring job class authority of I or II, the rule recognizes that one person may perform all facets of project including design, review and approval. The rule clarifies that certified practitioners will face consequences if they complete work outside of the scope of their certification, including engineering work beyond their job ratings.

### Project Approval

This rule adds the option for DATCP to require approval of cost-share projects by type, if needed. The option can be triggered if there is a statewide lack of expertise needed to design a practice such as feed storage runoff control systems, and would require DATCP approval, similar to the approval exercised by DATCP for projects funded with over \$50,000 in cost-sharing.