

Wisconsin's Runoff Management Rules NR 151 Subchapter II

NR 151 contains the runoff pollution performance standards and prohibitions, implementation and enforcement provisions, and a process to develop and disseminate non-agricultural technical standards. This fact sheet focuses on NR 151 Subchapter II, the agricultural performance standards and prohibitions and the procedures to implement those standards. Conservation practices to implement the agricultural performance standards are contained in ATCP 50, a rule promulgated by the Department of Agriculture, Trade and Consumer Protection (DATCP).

The NR 151 agricultural performance standards and prohibitions are intended to protect water quality by minimizing the amount of soil erosion, nutrients from manure and croplands, and other nonpoint source pollutants that enter waterways. Subchapter II addresses a wide range of situations.

The effective date for all performance standards, except the one dealing with nutrient management, is the date when the rule is published by the State Revisor of Statutes. The DNR may also promulgate additional targeted performance standards in the future if it is shown that the basic performance standards are insufficient to meet state water quality standards.

Compliance with the performance standards and prohibitions is not required for existing facilities and practices unless cost sharing is offered. At least 70 percent of the costs that qualify for cost sharing must be made available to an operation in order to require that a facility correct performance standard violations. The funds may be provided by state, local, or any other sources. The cost-share rate must be increased up to 90 percent in cases of economic hardship. Cost sharing is not required for new facilities and practices or for practices needed for livestock operation regulated by a Wisconsin Pollutant Discharge Elimination System Permit (WPDES).

The status of cropping practices or livestock operations - whether they are new or existing - is based on cropping practices or livestock on the land, rather than an ownership. An existing cropping practice or livestock operation is one that is operating as of the effective date of the rule, rather than the date of the statute was effective. Determinations of whether or not a facility is in compliance with the performance standards may be made by the DNR or by the local unit of government (e.g. a county land conservation department).

Sheet, rill, and wind erosion.

All cropped fields must meet the tolerable soil erosion rate ("T") for those fields. Soil loss will be estimated according to the Revised Universal Soil Loss Equation II (RUSLE II), or an appropriate wind loss equation, as referenced in ATCP 50.

Manure storage facilities. All new, substantially altered or abandoned manure storage facilities must be constructed, maintained or abandoned in accordance with accepted standards. For protection against manure overflow from storms, facilities are required to maintain one foot of freeboard or adequate freeboard storage to contain the 25-year, 24-hour storm, whichever is greater. Existing facilities that are failing or leaking and pose an imminent threat to public health, fish, and aquatic life or that violate groundwater standards must be upgraded, replaced or properly abandoned.

Clean water diversions.

Runoff from fields and buildings must be diverted away from contacting feedlots, manure storage areas, and barnyards located within 300 feet of a stream, 1,000 feet of a lake, areas susceptible to groundwater contamination or areas up-gradient of private wells.

Nutrient management.

Parties responsible for applying nutrients to agricultural fields must do so in accordance with a nutrient management plan. This performance standard becomes effective in 2005 for certain high priority waters and in 2008 for all other areas.

Manure management prohibitions.

No livestock operation, regardless of size, can have any of the following:

- Manure storage facility overflows.
- Unconfined manure piles within 300 feet of a stream or 1,000 of a lake or areas susceptible to groundwater contamination.
- Direct runoff from a feedlot or stored manure into state waters.
- Unlimited access by livestock to state waters where the high concentration of animals could prevent maintenance of adequate sod or self-sustaining vegetative cover. The prohibition does not apply to properly designed, installed, and maintained livestock/farm equipment crossings.

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Determinations of whether or not a facility is in compliance with the performance standards may be made by the DNR or by the local unit of government (e.g., a county land conservation department).

If the DNR or governmental unit determines that a livestock facility (e.g., manure storage facility, runoff control system) at an existing livestock operation is not in compliance with the performance standards or prohibitions, the base operation, including additional expansion, may be eligible for cost sharing as specified in the table above.

A new cropping practice or livestock operation is one that either was not in existence as of the effective date of this rule or results from a significant change that brings the cropland or livestock facility out of compliance with the performance standards or prohibitions. New operations are not eligible for cost sharing to bring their facilities into compliance with the rule requirements.

NR 151.09 includes a step-wise implementation and enforcement process for cropland performance standards and NR 151.095 contains a process for livestock performance standards and prohibitions. Key steps include determining the status (existing/new) of cropland practices based on conservation practices based on conservation practices and cropping history, and the status of livestock facilities; determining whether cost sharing is available based on code criteria; providing landowners with formal notices of cost-share determination; setting the compliance period and extensions to compliance periods and monitoring whether compliance is achieved; and collaborating on whether to grant variance requests from landowners.

The DNR is responsible for administering these portions of the law but may, and intends to, develop strategies to allow for administration of these implementation processes by county land conservation departments. DNR implementation of performance standards and prohibitions is intended to be limited to those areas where local units of government do not implement or enforce the performance standards and prohibitions. The DNR will be targeting its implementation efforts at high priority water quality areas, such as Outstanding and Exceptional Resource Waters, waters on the federal list of impaired waterbodies, and source water protection areas.



UW-Extension Columbia County • Columbia County Annex • 120 W Conant Street, Box 567, Portage, WI 53901
(608) 742-9680 • www.uwex.edu/ces/cty/columbia

NR 243 also contains language outlining the DNR's efforts to implement performance standards and prohibitions for animal feeding operations, including those with more than 1,000 animal units.

Local governmental units enacting livestock operation ordinances that go beyond the performance standards in proposed NR 151 must obtain approval from the DNR or DATCP.