

Implementing Runoff Rules: NR 151, NR 243

*Dane County Healthy Farms,
Healthy Lakes Task Force*

October 4, 2017





Federal and State Laws

- **NR 243**, Wis. Adm. Code – The Department has the authority under s. 283.11(1), Stats., to promulgate rules that incorporate requirements established by the U.S. EPA. Department rules incorporate federal regulations established in Title 40, Code of Federal Regulations (122 and 412) that regulate CAFOs.
 - Delegated authority of CWA and Federal NPDES CAFO Permit program.
 - Effective date of May 2007



State Laws

- **NR 151**, Wis. Adm. Code – DNR will administer performance standards and prohibitions in response to two legislative acts, Act 27 (1997) and Act 9 (1999).
- s. 281.16(3), Stats.
 - DNR prescribes performance standards
 - DATCP prescribes technical standards to achieve compliance with ag performance standards.



NR 151

- Livestock and cropland performance standards
 - Effective date of October 2002
 - Tillage, PI, process wastewater added January 2011
- Non-agricultural performance standards
 - Address urban and construction related runoff.
 - Urban grants



Clean Water Act

- Impaired Waters – Section 303(d) of CWA
 - Requires the listing of waters that do not meet water quality standards.
 - Biennial basis, list and delist
- Goal to restore all impaired waters to meet WQS.
- Total Maximum Daily Load (TMDL)



TMDLs

- Considers all pollutant sources to determine the max pollutant and still meet WQS.
 - Establish reduction targets.
 - $\text{TMDL} = \text{WLA} + \text{LA} + \text{MOS}$
(PS) (NPS)
 - WLAs delineated in the TMDL need to be expressed in Wisconsin Pollutant Discharge Elimination System (WPDES) permits.
 - NPS implementation is an adaptive process, requiring the collaboration of diverse stakeholders and the prioritization and targeting of available programmatic, regulatory, financial, and technical resources.



Implementing TMDLs

- Watershed plans for implementing practices to reduce pollutants (9KE).
 - Recommend HUC 12 size (50 sq mi.)
- EPA defined information required to be eligible for CWA section 319 and GLRI funding.
- More likely to receive grants.



State Conservation Standards

- Rely on NRCS technical guides for constructed practices.
 - NRCS 590 (nutrient management)
 - NRCS 313 (waste storage facility)
 - NR 243 (goes beyond 590)
- State standards may reference NRCS to define how a BMP should be built.



Implementation

- NR 151 ag performance standards are mandatory for all farms.
- Implementation is a collective responsibility (DATCP, DNR, County LCDs, farms, agronomists, manure haulers)



Implementation

- Voluntary compliance programs (TRM, FPP, watershed projects).
 - Incentive based
- Required compliance programs (WPDES, NOD, Livestock Siting, local ordinances).
 - Enforcement track



Cost Sharing Requirements

- Facility Status
 - “New vs. existing”
- Type of discharge
 - Different category NODs
- Cost shareable practice
 - Defined BMP vs. management issue



Local Ordinances

- NR 151.096, Wis. Adm. Code
 - Local regulations that exceed state standards need DNR and/or DATCP approval.
 - Requires supporting documentation to achieve WQS.
 - Counties have adopted all of NR 151 in a local ordinance to enforce at the local level.



Summary

- TMDLs define the pollutant reduction targets.
- Develop a watershed plan, 9KE.
- Implement BMPs to reduce pollution. (WPDES permits, TRM, NOD, Urban, FPP, local programs, etc).
- Document compliance with NR 151.
- Measure improvements in water quality.



Summary

- DNR creates performance standards.
- DATCP creates technical standards.
- DNR delegated to implement CAFO rules.
- Cost sharing may be required, depending on the facility status, the type of discharge, and type of corrective measure.
- Local ordinances can go beyond NR 151, if need is demonstrated.



References

Agricultural Performance Standards and Manure Management Prohibitions

<http://dnr.wi.gov/topic/nonpoint/agperformancestandards.html>

DNR CAFO Program

<http://dnr.wi.gov/topic/AgBusiness/CAFO/>

Wisconsin Impaired Waters and TMDLs

<http://dnr.wi.gov/topic/impairedwaters/>

Wisconsin 9 Key Element Plans

<http://dnr.wi.gov/topic/nonpoint/9keyelementplans.html>