



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary Randy Romanski

Wisconsin Administrative Code Chapter ATCP 51 Technical Expert Committee Agenda

3/6/2023

The Livestock Facility Siting Technical Expert Committee (TEC) will meet on March 6, 2023. The TEC will hold its official business at 12:00 pm via Zoom and at 2811 Agriculture Drive, Madison WI, 53718. To attend the meeting remotely, you must use the following Zoom hyperlink

<https://www.zoomgov.com/j/1618059284?pwd=c2VTMERnMWFhclkwRktTQWx2dlFxdz09> meeting ID 161 805 9284, passcode 058652. The agenda for the meeting is shown below. If the TEC is unable to address all business items during the course of the meeting, it will reconvene on March 13, 2023.

AGENDA ITEMS AND TENTATIVE SCHEDULE:

- 1 Call the Meeting to Order – **DATCP staff**
 - a. Roll Call
 - b. Open meeting notice
 - c. Introductions
 - d. Review Nutrient Management Standard Committee Meeting Minutes
- 2 Review waste storage facility conservation practice standards (CPS)
NRCS CPS 313 Manure Storage Facility (Nov. 2004), NRCS CPS 634 Manure Transfer (Nov. 2004), NRCS CPS 360 Closure of Waste Impoundments (Dec. 2002) and new developments in the CPS
 - a. Background on standard - **DATCP Staff**
 - b. Previous recommendations - **DATCP Staff**
 - c. Discuss current standard
 - d. Formulate recommendations
- 3 Break (15 minutes)
- 4 Review runoff management conservation practice standards (CPS)
NRCS CPS 635 Wastewater Treatment Strip (Jan. 2002), Using BARNY to model predicted phosphorus runoff for existing feedlots, feeds storage CPS and new developments in the CPS
 - a. Background on standard - **DATCP Staff**
 - b. Previous recommendations - **DATCP Staff**
 - c. Discuss current standard
 - d. Formulate recommendations
- 5 Planning for next TEC meeting - **DATCP Staff**

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Setbacks (ATCP 51.12, Wis. Admin Rule), Odor and Air Emissions (ATCP 51.14, Wis. Admin Rule)

6 Adjourn

**MINUTES
LIVESTOCK FACILITY SITING TECHNICAL EXPERT COMMITTEE**

**January 27, 2023
2811 Agriculture Drive and
ZoomGov Meeting**

Item #1 Call to Order—Roll Call, Open Meeting Notice, Introductions

Call to Order

The Livestock Facility Siting Technical Expert Committee (Committee) met in person and via videoconference on **January 27, 2023**. The meeting was preceded by public notice as required by Wis. Stat. § 19.84. The meeting was called to order at **9:00 am**.

Members Present

Members: Scott Frank, Nikki Wagner, Travis Drier, Emily Micolichek, AV Roth, Jay Heeg, Curtis Hedman, Mike Koles, Matt Zangl and Gaylord Olson were present.

Staff: Tim Jackson, Tim Anderson, Alex Elias, Cody Calkins, Andrea Topper and Katy Smith of DATCP were present. Aaron O'Rourke and Tyler Dix of DNR were present.

Curtis Hedman, member of the 2022-2023 Livestock Siting Technical Expert Committee formally introduced himself. Hedman is a Research Scientist and Toxicologist with the Department of Health Services. Hedman previously worked as an Environmental Scientist with the State Lab of Hygiene.

The Committee reviewed the minutes of the December 2022 meeting of the Technical Expert Committee meeting and offered no revisions.

Item #2 Review nutrient management technical standard NRCS 590 (Sept 2005) and new developments in the standard.

Jackson reviewed [ATCP 51.16, Wis. Admin Rule, ATCP 51, Appendix A, Worksheet 3 with the Committee](#). Cody Calkins, Conservation Specialist, DATCP delivered a presentation on technical changes between the NRCS 590 (2005) and NRCS 590 (2015) standard, including the incorporation of winter spreading restrictions and prohibitions, as well as the nitrogen application prohibitions and restrictions. The [presentation](#) is available on the Livestock Facility Siting Technical Expert Committee's [webpage](#).

Jackson reviewed historical recommendations of previously convened Technical Expert Committees and facilitated a discussion on the livestock facility siting nutrient management standard. The Committee discussion guide is available within the [January 27th Meeting Materials](#) which are accessible on the Committee's [webpage](#). Cody Calkins, Andrea Topper, DATCP and Aaron O'Rourke, Tyler Dix, DNR were available to answer technical questions related to the nutrient management standard in an advisory capacity.

The Committee, advisors and Livestock Facility Siting Program Staff discussed the following:

1. What about the current ATCP 51.16 standard for nutrient management is working, and what is not?

The Committee could not identify any other local programs or permits that use the 2005 version of NRCS 590 and suggested its use is outdated. SnapPlus, the software that is used to prepare nutrient management plans is already designed to help users meet the 2015 version of NRCS 590.

The Committee also noted that livestock facility operators are not currently authorized to prepare their own nutrient management plans in ATCP 51.16. There is value in affording qualified producers the option to do so. There are existing criteria in ATCP 50.48(2), Wis. Admin. Rule to qualify operators to prepare their own plans.

2. Does the 2005 version of the NRCS 590 meet the obligation of s. 93.90(2)(b)1-7?

The Committee discussed that the standard was updated for a reason in 2015 and that failing to update ATCP 51.16 to match does not meet the obligations of s. 93.90(2)(b)1-7

The Committee further articulated:

- There may be potential financial benefits in authorizing qualified producers to write their own plans. Affording this option may make the 2015 version of NRCS 590 more accessible as that is the standard SnapPlus is built to assist users prepare plans for.
- There may be some slightly lower upfront costs to producers associated with developing a plan to meet the 2005 version of NRCS 590 but the long-term savings and efficiencies of the 2015 version outweigh those.
- It would be difficult for a producer to show compliance specifically with the 2005 version of NRCS 590 outside of the checklist, because SnapPlus is designed to help users meet the 2015 version of NRCS 590. Furthermore, it may be difficult for a permitting authority to verify compliance with the 2005 of NRCS 590.

3. Should ATCP 51.16 be revised to require compliance with the 2015 version of NRCS 590? Or should ATCP 51.16 reference ATCP 50 to match other state program requirements?

The Committee asked if NRCS 590 is set to be updated again anytime soon. Advisors responded that it might be opened for revision this year (2023). Some areas of the state have chosen to reference ATCP 50 in their local ordinances to avoid having to revise when updates to NRCS 590 are made. The Committee discussed past updates to NRCS 590 and the effect that future updates might have on producers. If an ATCP 50 reference is recommended rather than waiting for another Committee review, would that afford operators enough time to come into compliance? Several members attested to their experience with the 2015 update and explained that there is a natural lag in implementation while SNAP+ is updated, along with conservation staff affording time to producers. The Committee agreed that ATCP 51.16 should reference the 2015 version of NRCS 590.

4. Should the worksheet 4 exemption for WPDES permit holders under 51.16(4) remain? If yes: Should additional documentation from WPDES permit applicants be required as part of the exemption? What information would be helpful?

The Committee discussed that the exemption affords operators with the presumption of compliance based on the review for their WPDES permit by the DNR. However, the exemption requires the WPDES permit be for an equal or greater number of animal units than the livestock siting application. There is not an explicit number of animal units included in the WPDES permit copy that is submitted to local livestock siting authorities.

Advisors identified that WPDES permit statistics, including permitted animal units, are available on the DNR's WPDES stats webpage. Local staff may also reach out to DNR staff for clarification on submitted WPDES permit copies. There is also a WPDES permit factsheet produced as part of DNR's

approval process. This factsheet contains information such as animal units and is provided ahead of public meetings. The Committee discussed the value of the WPDES factsheet to address questions related to animal units authorized by a permit, while keeping the exemption in place as intended. More transparency for WPDES permit animal units could alleviate consistency concerns with a local livestock siting permit. The Committee also considered the logistics of local approvals using a WPDES permit exemption for a number of animal units which may exceed the number allowed in a local ordinance's zoning district. It was discussed that this scenario may go beyond the scope of this Committee.

5. Should facility operators continue to be disqualified from being able to prepare their own nutrient management checklists and plans for approval of their permit?

The Committee affirmed their previous discussions that operators should be able to prepare their own plans and checklists if they are qualified. There is already guidance in ATCP 50.48(2) that establishes the qualifications.

6. Should the 590 checklist in worksheet 3 remain the only required submission to prove compliance with the standard, or should additional materials be required, such as the full plan?

The Committee discussed the potential impacts of requiring additional nutrient management materials be submitted to a permitting authority at the time of application, such as the full plan. Some local officials may not have the capacity to review the nutrient management plans in full. But some local officials may find those materials helpful when hosting public meetings. Currently in ATCP 51, it is an option for local officials to request that information if necessary. The Committee determined that leaving it as an option for local permitting authorities to request additional materials to substantiate questions from the nutrient management checklist (as currently authorized under s. ATCP 51.16(1)(b), Wis. Admin. Rule) would be most beneficial.

7. When determining permit approval related to land base access for spreading, would it help local governments if applications identified the acres owned versus rented? If so, what is the best way to accomplish this?

The Committee identified that the 2015 version of NRCS 590 already asks producers to show owned versus rented acres. Knowing owned and rented acres is useful for local staff, especially when other programs such as farmland preservation are involved. The Committee also discussed the possibility of landowner names for rented acres being part of the public record in an application process, as privacy may be a concern. However, the 2015 version of NRCS 590 does not require landowner names be listed to presume compliance. The Committee determined that updating to the 2015 version of NRCS 590 and using the checklist would be adequate.

The Committee offered the following recommendations:

The Committee, as a consensus, recommends updating 51.16 to require compliance with the 2015 version of the NRCS 590 technical standard for nutrient management.

Part of The Committee recommends that ATCP 51.16 reference another state administrative rule, such as ATCP 50, to keep livestock facility siting requirements for nutrient management consistent with other state rules.

The Committee, as a consensus, recommends adding a requirement to include the WPDES factsheet with a copy of the WPDES permit if an applicant is using the exemption afforded in ATCP 51.16(4) for Worksheet 3 of the application.

The Committee, as a consensus, recommends that livestock operators be allowed to prepare their own nutrient management plans and answer their own checklists in Worksheet 3 of the application if they meet the criteria for qualification under ATCP 50.48(2).

Item #3 Preparing for the Next Meeting

Jackson advised the committee that the next meeting would focus on review of the Livestock Facility Siting Waste Storage and Runoff Management Standards ([ATCP 51.18 and 51.20](#), [Wis. Admin Rule, ATCP 51, Appendix A, Worksheets 4 and 5](#)). The committee should expect a survey of their availability for the days of Feb 27th - 28th and March 6th – 17th during the first week of February. Two meetings will be scheduled to afford the committee the option to continue discussions on waste storage and runoff management in a second meeting. A packet of materials for the committee to prepare, including an agenda and discussion guide, will be sent at least one week in advance of the next scheduled meeting.

The meeting was adjourned at 11:46 am.

Note: A livestock operator is *not* required to submit a complete nutrient management plan with an application for local approval. Both the operator and the qualified nutrient management planner must sign the nutrient management checklist. See *Appendix A, worksheet 3, part C*.

(b) A political subdivision may ask a nutrient management planner to submit the documentation that the planner relied upon to substantiate the planner's answer to one or more questions on the nutrient management checklist under par. (a) 2. The political subdivision may deny local approval if the planner's documentation does not reasonably substantiate the answer.

(c) Paragraph (a) does not apply to a livestock facility with fewer than 500 animal units unless the operator's ratio of acres to animal units, calculated according to *Appendix A, worksheet 3, part B*, is less than 1.5 for dairy and beef cattle, 1.0 for swine, 2.0 for sheep and goats, 2.5 for chickens and ducks, and 5.5 for turkeys.

Note: A waste and nutrient management worksheet (*Appendix A, worksheet 3*) must accompany every application for local approval. Among other things, the *worksheet* shows the operator's ratio of acres to animal units under par. (c).

Paragraph (c) is an exemption, not a requirement, for livestock facilities. If a livestock facility qualifies for exemption under par. (c), the operator is *not* required to submit a *nutrient management checklist* under par. (a). The ratios stated in par. (c) are based on the phosphorus content of manure from the respective livestock species.

(2) PRESUMPTION. For purposes of local approval, an operator is presumed to comply with sub. (1) if the application for local approval complies with s. ATCP 51.30.

Note: Under s. ATCP 51.30, an application must be complete, credible and internally consistent. The application must include, among other things, a *waste and nutrient management worksheet* (*Appendix A, worksheet 3*). The completed *worksheet* must include all of the following:

- The types and amounts of manure and other organic waste that the facility will generate when fully populated.
- The types and amounts of waste to be stored, the waste storage facilities and methods to be used, the duration of waste storage, and waste storage capacity.
- The final disposition of waste by landspreading or other means.
- The acreage currently available for landspreading.
- A map showing where waste will be applied to land.
- A *nutrient management checklist* if required under sub. (1).

Local approval is conditioned upon compliance in fact (see s. ATCP 51.34 (4)). The presumption in sub. (2) may be rebutted by clear and convincing evidence in the record (see ss. ATCP 51.34 and 51.36).

(3) NUTRIENT MANAGEMENT UPDATES. An operator may update nutrient management plans and practices as necessary, consistent with sub. (1) (a) 1.

Note: This subsection does not require an operator to file updates with a political subdivision, but neither does it limit local authority to request updates or monitor compliance with sub. (1) (a) 1. See s. ATCP 51.34 (4).

(4) EXEMPTION. This section does not apply if all of the following apply:

(a) The operator holds a WPDES permit for the same proposed livestock facility, and that permit is based on housing for a number of animal units that is equal to or greater than the number for which the operator seeks local approval.

(b) The operator submits a copy of the WPDES permit with the operator's application for local approval.

History: CR 05-014: cr. Register April 2006 No. 604, eff. 5-1-06.

ATCP 51.18 Waste storage facilities. (1) DESIGN, CONSTRUCTION AND MAINTENANCE; GENERAL. All waste storage facilities for a livestock facility shall be designed, constructed and maintained to minimize the risk of structural failure, and to minimize the potential for waste discharge to surface water or groundwater. A waste storage facility may not lack structural integrity or have significant leakage. An unlined earthen waste storage facility may not be located on a site that is susceptible to groundwater contamination.

Note: A "site that is susceptible to groundwater contamination" is defined in s. ATCP 51.01 (39).

(2) EXISTING FACILITIES. For purposes of local approval, an existing waste storage facility is presumed to comply with sub. (1) if a registered professional engineer or certified agricultural engineering practitioner certifies one of the following in the application for local approval:

(a) The facility is constructed of concrete or steel or both, was constructed within the last 10 years according to then-existing NRCS standards, and shows no apparent signs of structural failure or significant leakage.

(b) The facility was constructed within the last 3 years according to then-existing NRCS standards, and shows no apparent signs of structural failure or significant leakage.

(c) The facility was constructed according to NRCS standards that existed at the time of construction, is in good condition and repair, and shows no apparent signs of structural failure or significant leakage.

(d) The facility is in good condition and repair, shows no apparent signs of structural failure or significant leakage, and is located on a site at which the soils and separation distances to groundwater comply with *NRCS technical guide manure storage facility standard 313, table 1 (November, 2004)*.

(e) The facility is in good condition and repair, shows no apparent signs of structural failure or significant leakage, is located entirely above ground, and is located on a site at which the soils comply with *NRCS technical guide manure storage facility standard 313, table 5 (November, 2004)*.

Note: According to s. ATCP 51.30, an application for local approval must include a certification under sub. (2) for each existing waste storage facility. See *Appendix A, worksheet 4 (waste storage facilities)*.

(3) NEW OR SUBSTANTIALLY ALTERED FACILITIES. For purposes of local approval, a new or substantially altered waste storage facility is presumed to comply with sub. (1) if all of the following apply:

(a) The application for local approval includes design specifications for the facility.

(b) A registered professional engineer or certified agricultural engineering practitioner certifies that the design specifications comply with all of the following:

1. NRCS technical guide manure storage facility standard 313 (November, 2004).

2. NRCS technical guide manure transfer standard 634 (November, 2004).

Note: According to s. ATCP 51.30, an application for local approval must include the design specifications and certification to which sub. (3) refers. See *Appendix A, worksheet 4 (waste storage facilities)*.

(4) CLOSED FACILITIES. If a waste storage facility is closed as part of the construction or expansion of a livestock facility, the closure shall comply with *NRCS technical guide closure of waste impoundments standard 360 (December, 2002)*. A closure is presumed to comply with this subsection, for purposes of local approval, if the application for local approval includes the closure plan and certification required under s. ATCP 51.30.

Note: According to s. ATCP 51.30, an application for local approval must identify any waste storage facilities to be closed. The application must include a closure plan for each identified facility. A registered professional engineer or certified agricultural engineering practitioner must certify that the closure plan complies with *NRCS technical guide closure of waste impoundments standard 360 (December 2002)*. See *Appendix A, worksheet 4 (waste storage facilities)*.

Under s. NR 151.05 (3) and (4), an operator must normally close a manure storage facility if the facility has not been used for 24 months, or poses an imminent threat to public health, aquatic life or groundwater.

If a waste storage facility is abandoned or not properly closed, a political subdivision may seek redress under s. 66.0627 or 254.59, Stats., as appropriate.

(5) STORAGE CAPACITY. (a) The waste storage capacity of a livestock facility, not counting any excess storage capacity required for open waste storage facilities under par. (b), shall be adequate for reasonably foreseeable storage needs based on the operator's waste and nutrient management strategy under s. ATCP 51.16.

Note: Section ATCP 51.20 (5) prohibits overflow of waste storage facilities. See also ss. NR 151.08 (2) and ATCP 50.04 (1).

(b) An operator shall at all times maintain, in every open waste storage facility, unused storage capacity equal to the greater of the following volumes:

1. One foot multiplied by the top area of the storage facility.

2. The volume of rain that would accumulate in the manure storage facility from a 25-year 24-hour storm.

Note: The required excess storage capacity in par. (b), often called “freeboard storage,” provides a safety factor to prevent manure storage overflow in the event of a major rain event.

(c) The waste storage capacity of a livestock facility is presumed to comply with this subsection, for purposes of a local approval, if the application for local approval complies with s. ATCP 51.30.

Note: Under s. ATCP 51.30, an application must be complete, credible and internally consistent. An application must include a *waste and nutrient management worksheet (worksheet 3)*, signed by the operator and a qualified nutrient management planner) and a *waste storage facility worksheet (worksheet 4)*, signed by a registered professional engineer or certified agricultural engineering practitioner). *Worksheet 3* must identify waste storage needs, based on the operator’s landspreading and waste disposal strategy. *Worksheet 3* must also show waste storage *capacity*, consistent with *worksheet 4*. Capacity must be adequate for reasonably foreseeable needs.

(6) **DEVIATION FROM DESIGN SPECIFICATIONS.** Local approval of a livestock facility does not authorize an operator to populate that approved livestock facility if the construction, alteration or closure of a waste storage facility deviates materially, and without express authorization from the political subdivision, from the design specifications or closure plan included in the application for local approval.

Note: A political subdivision may inspect waste storage facilities to verify that they are constructed according to specifications included in the application for local approval. This section *does not require or prohibit* local inspection. A deviation under sub. (6) does not invalidate a local approval, but does prevent the livestock operator from populating the approved livestock facility until the deviation is rectified or approved.

This chapter does not limit the application of local waste storage ordinances, except in connection with the approval of a new or expanded livestock facility. For example, if a livestock operator constructs a new waste storage structure without adding “animal units” for which local approval is required, the construction must comply with the local waste storage ordinance if any.

But if a livestock operator proposes to add “animal units” and construct a new waste storage structure, to create an “expanded livestock facility” for which local approval is required, the waste storage standards in this chapter are controlling. A political subdivision may not disapprove the expansion, except for reasons provided under this chapter.

(7) **EXEMPTION.** This section does not apply if all of the following apply:

(a) The operator holds a WPDES permit for the same proposed livestock facility, and that permit is based on housing for a number of animal units that is equal to or greater than the number for which the operator seeks local approval.

(b) The operator includes a copy of the WPDES permit with the operator’s application for local approval.

History: CR 05-014; cr. Register April 2006 No. 604, eff. 5-1-06.

ATCP 51.20 Runoff management. (1) NEW OR SUBSTANTIALLY ALTERED ANIMAL LOTS. New or substantially altered animal lots shall comply with *NRCS technical guide wastewater treatment strip standard 635 (January, 2002)*.

(2) **EXISTING ANIMAL LOTS.** (a) The predicted average annual phosphorus runoff from each existing animal lot to the end of the runoff treatment area, as determined by the *BARNY* model, shall be less than the following applicable amount:

1. Fifteen pounds if no part of the animal lot is located within 1,000 feet of a navigable lake or 300 feet of a navigable stream.

2. Five pounds if any part of the animal lot is located within 1,000 feet of a navigable lake or 300 feet of a navigable stream.

Note: The *BARNY* model is a computer model that predicts nutrient runoff from animal lots. Copies of the *BARNY* model are on file with the department and the legislative reference bureau. An Excel spreadsheet version may be obtained from the NRCS Wisconsin website (engineering directory).

(b) Runoff from an animal lot may not discharge to any direct conduit to groundwater.

Note: See ss. NR 151.08 (4) and ATCP 50.04 (1). A direct conduit to groundwater may include, for example, a sinkhole.

(3) **FEED STORAGE.** (a) Feed storage shall be managed to prevent any significant discharge of leachate or polluted runoff from stored feed to waters of the state.

(b) If an existing paved area may be used, without substantial alteration, to store or handle feed with a 70% or higher moisture content:

1. Surface water runoff shall be diverted from entering the paved area.

2. Surface discharge of leachate from stored feed shall be collected before it leaves the paved area, if the paved area covers more than one acre. Collected leachate shall be stored and disposed of in a manner that prevents discharge to waters of the state.

Note: Feed leachate is a potentially serious water pollutant. Paved areas include paved feed storage bunkers and handling areas. Collected leachate may, for example, be transferred to waste storage and applied to land at agronomic rates.

(c) A new or substantially altered feed storage structure, including any building, bunker, silo or paved area used for feed storage or handling, shall be designed, constructed and maintained to the following standards if it may be used to store or handle feed with a 70% or higher moisture content:

1. Surface water runoff shall be diverted from entering the feed storage structure.

2. Surface discharge of leachate shall be collected before it leaves the feed storage structure.

3. The top of the feed storage structure floor shall be at least 3 vertical feet from groundwater and bedrock.

4. If the feed storage structure covers more than 10,000 square feet, it shall have an effective subsurface system to collect leachate that may leak through the structure floor. The system shall consist of drainfill material, a tile drainage network, and an effective sub-liner as specified in *Appendix A, worksheet 5, section II.C*.

5. Collected leachate shall be stored and disposed of in a manner that prevents discharge to surface water or groundwater.

Note: Collected leachate may, for example, be transferred to waste storage and applied to land at agronomic rates.

(4) **CLEAN WATER DIVERSION.** Runoff from a livestock facility shall be diverted from contact with animal lots, waste storage facilities, paved feed storage areas and manure piles within 1,000 feet of a navigable lake or 300 feet of a navigable stream.

Note: See ss. NR 151.06 and ATCP 50.04 (1). Runoff may be diverted by means of earthen diversions, curbs, gutters, waterways, drains or other practices, as appropriate.

(5) **OVERFLOW OF WASTE STORAGE FACILITIES.** A livestock facility shall be designed, constructed and maintained to prevent overflow of waste storage facilities.

Note: Under s. ATCP 51.18 (5), waste storage capacity must be adequate to meet reasonably foreseeable storage needs, based on the operator’s waste and nutrient management strategy under s. ATCP 51.16. See also ss. NR 151.08 (2) and ATCP 50.04 (1).

(6) **UNCONFINED MANURE PILES.** A livestock facility may not have any unconfined manure piles within 1,000 feet of a navigable lake or 300 feet of a navigable stream.

Note: See ss. NR 151.08 (3) and ATCP 50.04 (1).

(7) **LIVESTOCK ACCESS TO SURFACE WATERS OF THE STATE.** A livestock facility shall be designed, constructed and maintained to prevent unrestricted livestock access to surface waters of the state, if that access will prevent adequate vegetative cover on banks adjoining the water. This subsection does not prohibit a properly designed, installed and maintained livestock crossing or machinery crossing.

Note: See ss. NR 151.08 (5) and ATCP 50.04 (1).

(8) **PRESUMPTION.** For purposes of local approval, a livestock facility is presumed to comply with this section if the application for local approval complies with s. ATCP 51.30.

Note: Under s. ATCP 51.30, an application must be complete, credible and internally consistent. An applicant must submit a *runoff management worksheet* signed by the applicant and a registered professional engineer or certified agricultural engineering practitioner (see *Appendix A, worksheet 5*). The *worksheet* shows presumptive compliance with this section. Local approval is conditioned upon compliance in fact (see sub. (9) and s. ATCP 51.34 (4)). The presumption of compliance may be rebutted by clear and convincing evidence in the record (see ss. ATCP 51.34 and 51.36).

(9) DEVIATION FROM DESIGN SPECIFICATIONS. Local approval of a livestock facility does not authorize an operator to populate that approved livestock facility if the construction or alteration of an animal lot or feed storage structure deviates materially, and without express authorization from the political subdivision, from design specifications included in the application for local approval.

Note: A political subdivision may inspect animal lots or feed storage structures to verify that they are constructed according to specifications included in the application for local approval. This section *does not require or prohibit* local inspection. A deviation under sub. (9) does not invalidate a local approval, but does prevent the livestock operator from populating the approved livestock facility until the deviation is rectified or approved.

(10) EXEMPTION. This section does not apply if all of the following apply:

(a) The operator holds a WPDES permit for the same proposed livestock facility, and that permit is based on housing for a number of animal units that is equal to or greater than the number for which the operator seeks local approval.

(b) The operator includes a copy of the WPDES permit with the operator's application for local approval.

History: CR 05-014; cr. Register April 2006 No. 604, eff. 5-1-06.

Subchapter III — Application and Approval

ATCP 51.30 Application. **(1) GENERAL.** If local approval is required for a new or expanded livestock facility, a person seeking local approval shall complete and file with the political subdivision the application form shown in *Appendix A*. The application shall include all of the information required by *Appendix A* and attached *worksheets*, including any authorized modifications made by the political subdivision under sub. (2). The information contained in the application shall be credible and internally consistent.

(2) LOCAL MODIFICATIONS. A political subdivision may not alter the application form shown in *Appendix A* and attached *worksheets*, or require any additional information, except that a political subdivision may require information needed to determine compliance with local ordinance standards authorized under s. ATCP 51.10 (3) or 51.12 (1).

(3) ADDITIONAL COPIES. A political subdivision may require an applicant to submit up to 4 duplicate copies of the original application under sub. (1). Each duplicate copy shall include all of the *worksheets*, maps and other attachments included in the application, except that it is not required to include engineering design specifications.

Note: A political subdivision must file one duplicate copy of the final application and attachments with the department, within 30 days after the political subdivision grants or denies that application. *See* s. ATCP 51.34 (5). If the political subdivision approves the application, the political subdivision must give the applicant a copy of the approved application, marked "approved." *See* s. ATCP 51.34 (3) (b). The applicant may wish to record this documentation with the register of deeds, and convey the documentation to any subsequent purchaser of the livestock facility. Among other things, documentation establishes "odor score" reference points for future expansions. *See* s. ATCP 51.14 (6).

(4) LOCAL FEES. (a) A political subdivision may charge an application fee established by local ordinance, not to exceed \$1,000, to offset the political subdivision's costs to review and process an application under sub. (1).

Note: Under s. 66.0628, Stats., any fee imposed by a political subdivision must bear a reasonable relationship to the service for which the fee is imposed.

(b) A political subdivision may not require an applicant to pay any fee, or post any bond or security with the political subdivision, except as provided in par. (a).

Note: If a waste storage facility is abandoned or not properly closed, a political subdivision may seek redress under s. 66.0627 or 254.59, Stats., and other law as appropriate. However, a political subdivision may not require an applicant for local approval to post any bond or security with the application.

(5) COMPLETE APPLICATION. Within 45 days after a political subdivision receives an application under sub. (1), the political subdivision shall notify the applicant whether the application contains everything required under subs. (1) to (4). If the application is not complete, the notice shall specifically describe what else is

needed. Within 14 days after the applicant has provided everything required under subs. (1) to (4), the political subdivision shall notify the applicant that the application is complete. A notice of completeness does not constitute an approval of the proposed livestock facility.

Note: *See* s. 93.90 (4) (a), Stats.

(6) NOTICE TO ADJACENT PROPERTY OWNERS. Within 14 days after a political subdivision issues a notice under sub. (5), the political subdivision shall mail a completed written copy of the notice in *Appendix C* to the recorded owner of each parcel of land that is adjacent to the proposed livestock facility. The political subdivision shall mail the notice by first class mail. A political subdivision may recover from the livestock facility operator, under sub. (4) (a), its reasonable cost to prepare and mail notices under this subsection. The sum of the costs charged to the livestock operator under this subsection and sub. (4) (a) may not exceed the maximum amount specified in sub. (4) (a). Failure to comply with the notice requirement under this subsection does not invalidate a political subdivision's approval of a proposed livestock facility, or create a cause of action by a property owner against the political subdivision.

History: CR 05-014; cr. Register April 2006 No. 604, eff. 5-1-06.

ATCP 51.32 Timely action on application. **(1) GENERAL.** Except as provided in sub. (2), a political subdivision shall grant or deny an application under s. ATCP 51.30 (1) within 90 days after the political subdivision gives notice under s. ATCP 51.30 (5) that the application is complete.

(2) TIME EXTENSION. (a) A political subdivision may extend the time limit in sub. (1) for good cause, including any of the following:

1. The political subdivision needs additional information to act on the application.

2. The applicant materially modifies the application or agrees to an extension.

(b) A political subdivision shall give an applicant written notice of any extension under par. (a). The notice shall state the reason for the extension, and shall specify the extended deadline date by which the political subdivision will act on the application.

Note: *See* s. 93.90(4) (d) and (e), Stats.

History: CR 05-014; cr. Register April 2006 No. 604, eff. 5-1-06.

ATCP 51.34 Granting or denying an application. **(1) GRANTING AN APPLICATION.** Except as provided in sub. (2), a political subdivision shall grant an application under s. ATCP 51.30 (1) if all of the following apply:

(a) The application complies with s. ATCP 51.30.

(b) The application contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets or is exempt from the standards in subch. II. To the extent that a standard under subch. II vests discretion in a political subdivision, the political subdivision may exercise that discretion.

Note: *See* s. 93.90 (4) (d), Stats.

(2) DENYING AN APPLICATION. A political subdivision may deny an application under s. ATCP 51.30 if any of the following apply:

(a) The application fails to meet the standard for approval under sub. (1).

(b) The political subdivision finds, based on other clear and convincing information in the record under s. ATCP 51.36, that the proposed livestock facility fails to comply with an applicable standard under subch. II.

(3) WRITTEN DECISION. (a) A political subdivision shall issue its decision under sub. (1) or (2) in writing. The decision shall be based on written findings of fact included in the decision. The findings of fact shall be supported by evidence in the record under s. ATCP 51.36. Findings may be based on presumptions created by this chapter.

Arm-lwr- 11/04 January 2006



Wisconsin Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive, PO Box 8911, Madison WI 53708-8911
Phone: (608) 224-4630 or livestocksting@wisconsin.gov

Worksheet 4 - Waste Storage Facilities

Instructions: This worksheet must be signed by a registered professional engineer or certified agricultural engineering practitioner. This worksheet must identify every waste storage facility in the proposed livestock facility (including storage structures and transfer systems).

You are NOT required to complete this worksheet if you already hold a WPDES permit for the proposed livestock facility (for the same or greater number of animal units). Simply check the following box, sign at the bottom of this page, and include a copy of the WPDES permit with your application.

[] I enclose a copy of my WPDES permit in place of Worksheet 4.

New or Substantially Altered Facilities: Design specifications for the following new or substantially altered waste storage facilities comply with NRCS Technical Guide Standards 313 (November, 2004) and 634 (November, 2004). [Identify each facility and attach design specifications for each facility.]

Existing Facilities Retained: The following waste storage facilities will continue in use without being substantially altered. Each facility meets one of the following:

- [] The facility (list each facility ...) was constructed of concrete or steel or both, was constructed within the last 10 years according to then-existing NRCS technical standards, and shows no apparent signs of structural failure or significant leakage.
[] The facility (list each facility ...) was constructed within the last 3 years according to then-existing NRCS technical standards, and shows no apparent signs of structural failure or significant leakage.
[] The facility (list each facility ...) was constructed to NRCS technical standards that existed at the time of construction, is in good condition and repair and shows no apparent signs of structural failure or significant leakage.
[] The facility (list each facility ...) is in good condition and repair, shows no apparent signs of structural failure or significant leakage, and is located on a site at which the soils and separation distances to groundwater comply with NRCS Technical Guide Manure Storage Facility Standard 313, Table 1 (November, 2004).
[] The facility (list each facility ...) is in good condition and repair, shows no apparent signs of structural failure or significant leakage, is located entirely above ground, and is located on a site at which the soils comply with NRCS Technical Guide Manure Storage Facility Standard 313, Table 5 (November, 2004).

Facilities To Be Abandoned: The following waste storage facilities will be closed according to a closure plan that complies with NRCS Technical Guide Standard 360 (June, 2001). [Attach closure plan for each facility.]

Total Storage Capacity: The waste storage facilities in the proposed livestock facility have a combined useable storage capacity of ... gallons or tons (cannot include required "freeboard" in useable capacity).

Professional Engineer's Embossed Seal

Print Name of Engineer (include WI License No.) or Certified Agricultural Engineering Practitioner

Signature of Engineer or Practitioner

Date

Name of Firm and Address

Arm-lwr- 11/04 January 2006


Wisconsin Department of Agriculture, Trade and Consumer Protection

2811 Agriculture Drive, PO Box 8911, Madison WI 53708-8911

Phone: (608) 224-4630 or livestocksting@wisconsin.gov

Worksheet 5 – Runoff Management

Instructions: This worksheet must be signed by a registered professional engineer or *certified agricultural engineering practitioner* (you must also sign). Signers attest to statements in this worksheet. You are responsible for compliance.

You are NOT required to complete this worksheet if you already hold a *WPDES permit* for the proposed *livestock facility* (for the same or greater number of *animal units*). Simply check the following box, sign at the bottom of this page, and include a copy of the *WPDES permit* with your application.

I enclose a copy of my *WPDES permit* in place of Worksheet 5.

Animal Lots¹

1. New or Substantially Altered Animal Lots: All *new or substantially altered animal lots* will be constructed according to the attached design specifications that comply with *NRCS Technical Guide Standard 635* (January, 2002). [Identify *animal lots* and attach design specifications for each *animal lot*.]

2. Existing Animal Lots Near Surface Waters: The following *animal lots* are located within 300 feet of a stream² or 1,000 feet of a lake. According to the *BARNY runoff model*, each of these *animal lots* has (or with minor alterations³ will have) predicted average annual phosphorus runoff of less than 5 lbs. per year (measured at the end of the treatment area). Runoff does not discharge to any direct conduit to groundwater. [Identify *animal lots* and minor alterations if any.]

3. Other Existing Animal Lots: The following *animal lots* are NOT located within 300 feet of a stream² or 1,000 feet of a lake. According to the *BARNY runoff model*, each *animal lot* has (or with minor alterations³ will have), a treatment area that reduces phosphorus runoff to an average of less than 15 lbs. per year (measured at the end of the treatment area). Runoff does not discharge to any direct conduit to groundwater. [Identify *animal lots* and minor alterations if any.]

Feed Storage

1. General. The operator agrees to manage feed storage to prevent significant discharge of leachate or polluted runoff to waters of the state.

2. Existing Feed Storage (High Moisture Feed). Existing paved areas and bunkers that may be used to store or handle high moisture feed (70% or higher moisture content) will meet the following standards:

- a) Surface water runoff will be diverted from entering the paved area or bunker.⁴
- b) Surface discharge of leachate will be collected before it leaves any paved area or bunker, if the paved area covers more than one acre. Collected leachate will be stored and disposed of in a manner that prevents discharge to waters of the state.⁵

¹ Treat multiple lots as one *animal lot* if runoff from the *animals lots* drains to the same treatment area or if runoff from the *animal lot* treatment areas converges or reaches the same surface water within 200 feet of any of those treatment areas.

² Indicated by a solid or dashed blue line on a 1:24,000 scale USGS topographic map.

³ "Minor alterations" are repairs or improvements that do not result in a *substantially altered animal lot*. "Minor alterations" may include conservation practices such as runoff diversions, contouring, and planting vegetation.

⁴ Runoff may be diverted by means of earthen diversions, curbs, walls, gutters, waterways or other practices, as appropriate.

⁵ Use safe methods to dispose of collected leachate. For example, leachate may be transferred to *waste storage structures* and then applied to land at agronomic rates.

Worksheet 5 (continued)

3. New or Substantially Altered Feed Storage Structures (High Moisture Feed): *New or substantially altered* feed storage structures (buildings, silos, bunkers or paved areas) used to store or handle high moisture feed (70% or higher moisture content) will be designed, constructed and maintained to the following standards [attach design specifications]:

- a) Surface water runoff will be diverted from entering the feed storage structure.¹
- b) Surface discharge of leachate will be collected before it leaves the feed storage structure.²
- c) The top of the feed storage structure floor will be at least 3 vertical feet from groundwater and bedrock.³
- d) Any feed storage structure with an area greater than 10,000 sq. ft. will have a subsurface drainage system to collect leachate that may leak through the structure floor. The subsurface drainage system must consist of drainfill material below the surface material, a tile drainage network designed to collect the leachate and deliver it to storage, and a subliner. The tile drainage network must, at a minimum, be installed at the perimeter of the structure only on the downgradient side(s). The sub-liner must, at a minimum, consist of one of the following:
 - Two feet of soil, either in place or installed, having a minimum of 50% fine soil particles (that pass a #200 soil sieve).
 - Two feet of soil, either in place or installed, having a minimum of 30% fine soil particles (that pass a #200 soil sieve) and a minimum PI (plasticity index) of 7.
 - A 40 mil liner of HDPE, EPDM or PVC.
 - A geosynthetic clay liner.
- e) Collected leachate will be stored and disposed of in a manner that prevents discharge to waters of the state.²

Nonpoint Pollution Standards

The livestock facility will be designed, constructed and maintained to do all of the following:

1. Divert runoff from contact with *animal lots, waste storage facilities, paved feed storage areas or manure piles* within 300 ft. of a stream or 1,000 ft. of a lake.
2. Avoid having any unconfined manure pile within 300 ft. of a stream or 1,000 ft. of a lake.
3. Prevent any overflow of *waste storage facilities*.
4. Restrict livestock access to waters of the state, as necessary to maintain adequate vegetative cover on banks adjoining the water (this does not apply to properly designed, installed and maintained livestock or farm equipment crossings).

Signature of Applicant or Authorized Representative

Date

Professional Engineer's
Embossed Seal

Print Name of Engineer (include WI License No.) or Certified Practitioner

Signature of Engineer or Practitioner

Date

Name of Firm and Address

¹ Runoff may be diverted by means of earthen diversions, curbs, walls, gutters, waterways or other practices, as appropriate.

² Use safe methods to dispose of collected leachate. For example, leachate may be transferred to waste storage and then applied to land at agronomic rates.

³ A tile system or curtain drain may be used to intercept lateral groundwater seepage, as necessary, to achieve the required distance to groundwater.

Discussion Guide – Waste Storage & Runoff Management
Livestock Facility Siting Technical Expert Committee

Scope of Discussion

The committee's second discussion covers items related to waste storage facilities and runoff management.

Waste Storage Facilities: Under ATCP 51, all waste storage facilities for a livestock facility shall be designed, constructed and maintained to minimize the risk of structural failure, and to minimize the potential for waste discharge to surface water or groundwater. New or substantially altered waste storage facilities and waste transfer systems must meet the 2004 versions of both NRCS Conservation Practice Standard (CPS) 313 Waste Storage Facility and NRCS CPS 634 Manure Transfer.

Runoff Management: Runoff from animal lots, feed storage, manure piles, waste storage facilities and livestock access to surface waters must be managed to avoid significant discharge to waters of the state. New animal lots must comply with the 2002 version of NRCS CPS 635 Wastewater Treatment Strip, while existing animal lots must use the BARNY model to predict average annual runoff.

During the meeting, DATCP staff will present on the waste storage and runoff management standards in ATCP 51 and related recommendations made by past committees. DATCP staff will also present on the technical elements of changes between the old and new CPS for waste storage and runoff management. The committee will address the issues, below, and determine if recommendations need to be made for changes to the department's rule.

Notes will be prepared by DATCP staff reflecting the committee's discussions and recommendations.

Background

Waste Storage Facilities: ATCP 51.18 establishes the standards for design, construction and maintenance of waste storage facilities for permitted livestock facilities through a local siting ordinance.

- New or substantially altered manure storage facilities and manure transfer systems must meet the 2004 versions of the NRCS CPS 313 Waste Storage Facility and NRCS CPS 634 Waste Transfer
 - ATCP 50 incorporates the 2014 versions of NRCS CPS 313 and CPS 634. Both standards have newer versions available (2017 for CPS 313, 2022 for CPS 634)
- Closure of waste storage facilities must meet with the 2002 version of the NRCS CPS 360 Waste Facility Closure
 - ATCP 50 incorporates the 2013 version of CPS 360. 2021 is the current version of NRCS CPS 360.

Runoff Management: ATCP 51.20 establishes the standards for managing runoff from animal lots, feed storage, waste storage facilities, manure piles and restricts livestock access to surface waters.

- New or substantially altered animal lots must meet the 2002 version of the NRCS 635 CPS Wastewater Treatment Strip
 - ATCP 50 incorporates the 2014 NRCS CPS 635 Vegetative Treatment Area; a 2016 version is also available which contains separate setbacks for animal lots and feed storage based on facility size

- Existing animal lots must use the BARNY model to ensure that they discharge less than 15lbs of phosphorous annually if located further than 1,000 ft from a lake or 300 feet from a stream, or 5lbs if closer
- Storage for feed with greater than 70% moisture content must collect leachate and divert surface water runoff
- All runoff from a livestock facility must be diverted from contact with animal lots, waste storage, feed storage and manure piles within 1,000 ft of a lake or 300 ft of a stream
- Livestock facilities shall be designed constructed and maintained to prevent overflow of waste storage facilities
- Unconfined manure piles may not exist within 1,000 ft of a lake or 300 ft of a stream
- Livestock may not have unrestricted access to surface waters of the state if that access will prevent adequate vegetative cover on the banks adjoining the water

In 2010, the technical expert committee reviewed the 51.18 and 51.20 standards and offered the following:

Waste Storage Facilities:

- The standards for existing manure storage structures should be refined and clarified to promote consistency

Runoff Management:

- The NRCS Barnyard Evaluation Rating Tool (BERT) should replace BARNY as the tool for calculating animal lot runoff

In 2014-2015, the technical expert committee reviewed the 51.18 and 51.20 standards and offered the following

Waste Storage Facilities:

- Standards for existing waste storage structures should be clarified and improved to provide better guidance in assessing water quality risks

Runoff Management:

- A requirement should be added for operators to avoid significant discharge of process wastewater to waters of the state, to stay consistent with other state rules (NR 151 and ATCP 50)
- The 2014 NRCS CPS 629 Waste Treatment should be required for feed storage structures with as low as 40% moisture
- Milking center wastewater should be required to be discharged to waste storage structures
- The BARNY model should be retained for use in calculating runoff and documentation should be required to verify compliance
- Minor alterations including gutters, diversions, underground outlets and sediment basins, should require documentation to achieve compliance with runoff thresholds for animal lots
- Existing feed storage structures should be required to be evaluated for risk of discharge in the same way as existing waste storage structures

In 2018-19, the technical expert committee reviewed the 51.18 and 51.20 standards and offered the following

Waste Storage Facilities:

- The 2017 version of the NRCS 313 CPS Waste Storage Structures should be incorporated to replace the 2004 version
- Other NRCS CPS for waste storage, such as NRCS CPS 317 Composting, 318 Short Term Storage and 520, 521, 522 Pond Sealing and Liners) should be evaluated for insertion into ATCP 51 as they are complimentary to the 2017 version of NRCS CPS 313
- Manure storage capacity requirements should not be based on the size of the livestock facility, instead the nutrient management standard should remain the focus of manure management (incorporating the 2015 NRCS 590 nutrient management standard would address that)
- “Substantially altered” definition should be reviewed to determine if it properly applies in all scenarios

Runoff Management:

- A model should be exclusively used to determine acceptable discharge from animal lots, rather than individual judgement via the worksheet certification; BERT or APLE-Lots may be better than BARNY
- The 2016 version of NRCS CPS 635 Vegetated Treatment Area and 2017 NRCS CPS 629 Waste Treatment should be incorporated to updated requirements for animal lots and feed storage
- An exception from runoff requirements for new and substantially altered feed storage structures would be appropriate for those less than one acre in size located where risk of contamination is low
- Existing feed storage structures should be required to be evaluated for risk of discharge in the same way as existing waste storage structures

Items for consideration

Waste Storage Facilities:

The current versions of the waste storage CPS are outdated when compared to other state rules with waste storage requirements. The application of different requirements between programs can be burdensome for local governments and producers, and it may present a conflict with [s. 93.90\(2\)\(a\), Wis. Stats.](#)

According to ATCP 51.18(7), facilities with a WPDES CAFO permit for an equal or greater number of animal units can substitute their approved permit for worksheet 4 to substantiate compliance with the waste storage standards. This means that unless local permitting authorities cite to another authority to do so, they cannot review the engineering designs themselves and must presume compliance with the standard.

A signature from a licensed engineer on worksheet 4 of the application presumes compliance with the waste storage standard for existing waste storage facilities. Are the criteria in 51.18(2) and associated checkbox on Worksheet 4 adequate in evaluating existing waste storage facilities?

Storage capacity requirements in updated CPS may not be wholly dictated by nutrient management plans. And it may not be practical to coordinate NM planners with engineers in most scenarios. Would a standalone storage capacity requirement be appropriate? Would it become an issue during an expansion?

Runoff Management:

The current versions of the runoff management CPS are outdated when compared to other state rules with runoff management requirements. The application of different requirements between programs can be burdensome for local governments and producers, and it may present a conflict with [s. 93.90\(2\)\(a\), Wis. Stats.](#)

According to 51.20(10), facilities with a WPDES CAFO permit for an equal or greater number of animal units can substitute their approved permit for worksheet 5 to substantiate compliance with the runoff management standard. This means that unless local permitting authorities cite to another authority to do so, they cannot review the engineering designs themselves and must presume compliance with the standard.

Questions for the Technical Expert Committee:

Waste Storage Facilities:

1. What is and what is not working with the existing ATCP 51 standards for waste storage facilities?
 - a. New or substantially altered manure storage facilities and manure transfer systems must meet the 2004 version of the NRCS CPS 313 Waste Storage Facility and NRCS CPS 634 Waste Transfer
 - b. Closure of waste storage facilities must meet the 2002 version of the NRCS CPS 360 Closure of Waste Impoundment
2. Do the existing waste storage standards meet the obligation of [s. 93.90\(2\)\(b\)1-7](#)?
3. Should 51.18 be revised to reference the updated versions of the NRCS CPS for waste storage and their associated standards (i.e. liner-type standards) for new and substantially altered facilities?
 - a. Or, should ATCP 51 reference ATCP 50 to match other state program requirements?
 - i. ATCP 50 incorporates 2014 NRCS CPS 313 Waste Storage Facility and NRCS CPS 634 Waste Transfer. Both standards have newer versions available (2017 for CPS 313, 2022 for CPS 634)
 - ii. ATCP 50 incorporates the 2013 NRCS CPS 360 Closure of Waste Impoundments. 2021 is the current version of NRCS CPS 360
4. Should the worksheet 4 exemption for WPDES permit holders under 51.18(7) remain?
 - a. If yes: Should additional documentation from WPDES permit applicants be required as part of the exemption?
 - i. What information and documentation would be helpful for local governments to request of WPDES holders to substantiate compliance?
5. Should the criteria in ATCP 51.18(2) to prove compliance for existing waste storage facilities be revised?
6. Should a time-based waste storage capacity requirement be incorporated (i.e. 180 days)? Does this type of capacity requirement become an issue during an expansion?

Runoff Management:

1. What is and what is not working with the existing ATCP 51 standards for runoff management?
 - a. New or substantially altered animal lots must meet the 2002 version of NRCS CPS 635 Wastewater Treatment Strips
 - b. Existing animal lots must use the BARNY model to ensure that they discharge less than 15lbs of phosphorous annually if located further than 1,000 ft from a lake or 300 feet from a stream, or 5lbs if closer
 - c. Storage for feed with greater than 70% moisture content must collect leachate and divert surface water runoff

- d. All runoff from a livestock facility must be diverted from contact with animal lots, waste storage, feed storage and manure piles within 1,000 ft of a lake or 300 ft of a stream
 - e. Livestock facilities shall be designed constructed and maintained to prevent overflow of waste storage facilities
 - f. Unconfined manure piles may not exist within 1,000 ft of a lake or 300 ft of a stream
 - g. Livestock may not have unrestricted access to surface waters of the state if that access will prevent adequate vegetative cover on the banks adjoining the water
2. Do the existing runoff management standards in ATCP 51 meet the obligation of [s. 93.90\(2\)\(b\)](#)1-7?
3. Should 51.20 be revised to reference the updated versions of the NRCS CPS related to runoff management for new and substantially altered facilities?
- a. Or, should ATCP 51 reference ATCP 50 to match other state program requirements?
 - i. ATCP 50 incorporates 2014 NRCS CPS 635 Vegetated Treatment Area (VTA). A 2016 version is available
 - 1. The 2016 version contains separate setbacks for animal lots and feed storage based on facility size
 - b. Should other relevant CPS be incorporated that aren't already part of an updated standard? (i.e. NRCS CPS 627 Wastewater Treatment – Milk House, NRCS CPS 561 Heavy Use Area Protection for feed storage areas)
 - c. Are the existing setback-related standards for runoff management in 51.20(2), (4) and (6) appropriate if the updated NRCS CPS 635 already applies them?
 - d. Is updating 51.20 practicable and workable given the existing CPS?
4. Should the worksheet 5 exemption for WPDES permit holders under 51.20(10) remain?
- a. If yes: Should additional documentation from WPDES permit applicants be required as part of the exemption?
 - i. What information and documentation would be helpful for local governments to request of WPDES holders to substantiate compliance? For example: BARNY model outputs or specific WPDES Permit components?
5. Is BARNY still the most acceptable runoff model for compliance with (updated) runoff management CPS?