

NR 151, Runoff Management

DNR is proposing revisions to Subchapters I (General Provisions) and II (Agricultural Performance Standards and Prohibitions) of administrative code NR 151. Among the revisions are new agricultural performance standards, provisions for additional control measures in certain impaired waters areas, modifications to existing performance standards, language clarifications and changes to definitions to comport with revisions to other administrative rules. The following is a summary of changes along with more specific references to sections of the code.

Tillage Setback Performance Standard—151.03

To protect riparian areas, the proposed performance standard would consist of a tillage set-back of 15 ft. Harvesting would be allowed provided it stays in self-sustaining vegetative cover and is not tilled.

Phosphorus Index Performance Standard—151.04

The proposed new performance standard would set a statewide phosphorus index (PI) of 6 for all agricultural land use. In areas where Total Maximum Daily Loads (TMDLs) have been developed to determine the maximum amount of pollutants that can be discharged to impaired waters, the rule would allow for lower PI values and soil loss rates if warranted by the TMDL. The PI could be calculated using SNAP-Plus—a tool that estimates the risk of phosphorus loss from runoff—or an equivalent method.

As proposed, compliance with the PI would be averaged over a length of time we are called an “accounting period”. An accounting period considers past and future management and replaces the concept of crop rotation. It would consist of the current year plus the previous 7 consecutive years of cropping history, then move forward each consecutive year creating a rolling time period not to exceed 8 years. The accounting period would start the year after the effective date of the rule revision.

While the PI would be averaged over a 8-yr. accounting period, the performance standards would include a cap of 10 on any individual year within the accounting period. The cap is necessary to address acute water quality issues and to further discourage poor farming practices such as tillage up and down steep slopes.

Modifications to the Sheet, Rill and Wind Erosion Performance Standard—151.02

A provision was added to require more stringent soil loss rates in areas with impaired waters if warranted by an approved TMDL.

Modifications to the Nutrient Management Performance Standard—151.07

The language was changed to make the performance standard conform to the language in technical standard 590, focus the performance standard on reduced delivery of nutrients to surface waters rather than on soil concentrations, and clarify the intent of the existing language.

Clarifications of Manure Storage Facility Provisions—151.015 Definitions

New or existing manure storage facility—151.015 (20)

It is unclear how the concept of “new” versus “existing” applies to abandoned manure storage facilities. DNR is clarifying the rule by modifying the definition of “substantially altered.” A facility abandoned prior to October 1, 2002 will be considered an “existing abandonment” and cost sharing must be offered to require proper facility closure. A facility in use after October 1,

2002 will be considered a “new abandonment” and cost sharing must not be offered to require proper facility closure.

No overflow of manure storage facilities—151.015(15m)

Under s. NR 151.08(2), a livestock operation shall have no overflow of manure storage facilities. This is a statutory prohibition and does not require an offer of cost sharing under NR 153 or ATCP 50. Some landowners pump or drain facilities onto the ground in order to prevent overflows. This results in the same environmental threats posed by overflows. The definition of overflow is being adjusted to cover intentional pumping onto the ground.

Implementation and enforcement procedures for cropland performance standards—151.09

The Notice of Noncompliance issued under ss. NR 151.09 and NR 151.095 currently requires that the Notice include language addressing the right to appeal. This language was originally included under advisement of the Agriculture Implementation Workgroup to foster an atmosphere of full disclosure. Notification of appeal rights at this step in the process is inconsistent with other DNR enforcement procedures and should be deleted. Landowners have adequate appeals rights as part of the stepped enforcement process and DNR proposes that sections 151.09(5)(a)3.h and 151.09(6)(a)3.e. be deleted.

Revised Definitions to Align with Other Administrative Rules—151.015

Phrases that were changed include “karst feature” to “direct conduits to groundwater” and “freeboard” to “margin of safety” (similar changes made in 151.05).