The proposed *Determining Significant Discharge of Process Wastewater and Direct Runoff from Feedlots to Waters of the State* guidance document was created to help county land and water conservation staff evaluate water quality impacts from livestock operations for more consistent compliance determinations with the agricultural performance standards and manure management prohibitions as provided within ch. NR 151, Wisconsin Administrative Code.

The Department is soliciting comments from the public on this draft guidance. Once the 21 day notice period is complete, all comments will be considered by the Department. After considering all public comments, revisions may be made to the guidance document and final guidance will be made available to internal and external stakeholders. Comments related to this draft guidance document should be sent to: DNRGuidanceDocuments@Wisconsin.gov. Please indicate in the subject line which Guidance Document the comments pertain to.
BUREAU OF WATERSHED MANAGEMENT
PROGRAM GUIDANCE

Nonpoint Source Program

Chapter NR 151 Implementation Series:
*Determining Significant Discharge of Process Wastewater and Direct Runoff from Feedlots to Waters of the State.*

Effective Date: Date
EGAD #: 3800-2018-05

Notice: This document is intended solely as guidance, and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed. This guidance does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

APPROVED:

________________________
Mike Thompson, Director
Bureau of Watershed Management

________________________
Date
Statement of Problem Being Addressed
County land and water conservation staff evaluate water quality impacts from livestock operations for compliance with the agricultural performance standards and manure management prohibitions as provided within ch. NR 151, Wisconsin Administrative Code. The Department of Natural Resources (Department) was requested to develop guidance for evaluating direct runoff from feedlots and significant discharge of process wastewater to waters of the state. This guidance provides factors that may be considered to aid in determining whether a process wastewater discharge is significant and/or there is direct runoff from feedlots.

Background and Definitions
The Department relies on local municipalities such as county land and water conservation departments to implement and enforce Wisconsin’s agricultural performance standards and prohibitions. County conservation staff are equipped with the appropriate technical and conservation planning skills to assist landowners with livestock operation evaluations and with the implementation of needed best management practices to meet the performance standards and prohibitions. In addition, other state and local programs rely on implementation of the agricultural performance standards and prohibitions for compliance or participation. These programs include Livestock Facility Siting, Farmland Preservation, Targeted Runoff Management grants, Notice of Discharge grants, Soil and Water Resource Management grants, and local ordinances.

The requested guidance is for evaluating livestock facilities for compliance with the following agricultural performance standards and prohibitions:
- Section NR 151.055 (2), Wis. Adm. Code, states “there may be no significant discharge of process wastewater to waters of the state.”
- Section NR 151.08 (4), Wis. Adm. Code, states “a livestock operation shall have no direct runoff from a feedlot or stored manure into the waters of the state.”

This guidance will specifically focus on evaluation of significant discharge of two types of process wastewater: milkhouse waste and runoff from feed storage areas. This guidance will also specifically focus on evaluation of direct runoff from feedlots (s. NR 151.015(7)(a)) rather than stored manure and manure storage (s. NR 151.015(7)(b-d)).

The following definitions apply to the feedlot and process wastewater prohibitions and provide the background for guidance implementation.

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<td><strong>“Direct conduits to groundwater”</strong> means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock, s. NR 151.02(11m).</td>
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| **“Direct runoff”** includes any of the following: s. NR 151.015(7), Wis. Adm. Code,  
  (a) Runoff from a feedlot that can be predicted to discharge a significant amount of pollutants to surface waters of the state or to a direct conduit to ground water.  
  (b) Runoff of stored manure, including manure leachate, that discharges a significant amount of pollutants to surface waters of the state or to a direct conduit to ground water. |
(c) Construction of a manure storage facility in permeable soils or over fractured bedrock without a liner designed in accordance with s. NR 154.04(3).
(d) Discharge of a significant amount of leachate from stored manure to waters of the state.

“Feed storage area” means an area used to store livestock feed. Livestock feed may include corn silage, haylage, and industrial by-products (i.e., distillers grain, brewers grain, candy, pizza crust, bakery waste, cotton seed, soy bean meal, animal fats, blood meal, fish meal, cannery waste, beet pulp, citrus pulp, soy hulls, corn midlings, whey, potatoes, grocery store vegetables). This is the area defined by the outside edge of the surface of where the feed is stored, including the apron, NRCS Conservation Practice Standard 635.

“Feedlot” means a barnyard, exercise area, or other outdoor area where livestock are concentrated for feeding or other purposes and self-sustaining vegetative cover is not maintained. “Feedlot” does not include a winter grazing area or a bare soil area such as a cattle lane or a supplemental feeding area located within a pasture, provided that the bare soil area is not a significant source of pollution to waters of the state, s.NR 151.015(8).

“Livestock facility” means a structure or system constructed or established on a livestock operation, s. NR 151.015(9).

“Livestock producer” means an owner or operator of a livestock operation, s.NR 151.015(10).

“Livestock operation” means a feedlot or other facility or a pasture where animals are fed, confined, maintained or stabled, s. 281.16(1) (c), Wis. Stats.

"Process wastewater" means wastewater from the production area directly or indirectly used in the operation of animal feeding operation that results from any or all the following, s. NR 151.015(16), by reference s. NR 243.03(53):
(a) Spillage or overflow from animal or poultry watering systems.
(b) Washing, cleaning, or flushing pens, barns, manure pits, or other animal feeding operation facilities.
(c) Direct contact swimming, washing, or spray cooling of animals or dust control.
(d) Water that comes into contact with any raw materials or animal byproducts including manure, feed, milk, eggs or bedding.

“Site that is susceptible to groundwater contamination” under s. 281.16(1)(g), Stats., means any one of the following:
(a) An area within 250 feet of a private well.
(b) An area within 1000 feet of a municipal well.
(c) An area within 300 feet upslope or 100 feet down slope of karst features.
(d) A channel with a cross-sectional area equal to or greater than 3 square feet that flows to a karst feature.
(e) An area where the soil depth to groundwater or bedrock is less than 2 feet.
(f) An area where the soil does not exhibit one of the following soil characteristics:
   1. At least a 2-foot soil layer with 40% fines or greater above groundwater and bedrock.
   2. At least a 3-foot soil layer with 20% fines or greater above groundwater and bedrock.
   3. At least a 5-foot soil layer with 10% fines, or greater above groundwater and bedrock.
"Stored manure" means manure that is kept in a manure storage facility or an unconfined manure pile, s. NR 151.015(19), Wis. Adm. Code.

"Surface waters" means all natural and artificial named and unnamed lakes and all naturally flowing streams within the boundaries of the state, but not including cooling lakes, farm ponds and facilities constructed for the treatment of wastewaters, s. NR 102.03(7), Wis. Adm. Code.

"Waters of the state" means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person, s. 283.01 (20), Stats.

Discussion
The primary question being posed is how to define “significant” as it relates to evaluating direct runoff from feedlots and discharge from feed storage areas and milkhouse waste systems for compliance with agricultural performance standards and prohibitions. “Significant” is a subjective term defined in the dictionary as meaning “sufficiently great or important to be worthy of attention; noteworthy.” In evaluating whether direct runoff or discharge is “significant” county staff generally may use best professional judgment to assess the water quality impacts of individual farms. This guidance will offer an approach to evaluating discharges from feed storage areas, milkhouse waste systems, and feedlots that includes guidance on how to document discharges and use existing codes, tools and resources when applying best professional judgment at the individual farm level. In many circumstances, water quality sampling can help evaluate discharges, however, this guidance is designed to help provide methods to evaluate these discharges in lieu of water sampling by using your best professional judgement in determining a significant discharge or direct runoff to waters of the state.

This guidance addresses feed storage evaluations of both runoff to surface waters as well as infiltration of leachate below feed storage area surfaces to groundwater. For feedlots and milkhouse waste, this guidance addresses runoff to surface waters and direct conduits to groundwater. Stored or stacked manure within the feedlot area and any calf hutch areas may be included in the evaluation of direct runoff from these areas. This guidance is intended to provide a methodology for determining whether direct runoff from a feedlot or a discharge of process wastewater to waters of the state is significant. Regardless of the waste source, the steps taken to conduct an evaluation are the same and can be broken down into 1) preparing for a site visit, 2) conducting the site visit, 3) post-visit analysis, and 4) making a final determination. These steps are broken down below with specific information regarding each waste source where appropriate.

Preparing for a Site Visit
Doing some work up front before conducting a site visit will make the actual site visit much more productive. Follow the local authority for accessing the property. Communicate with the farm owner to schedule the site visit and describe what the site visit will include. Some resources to use while preparing for a site visit include the following:
A. **Use mapping tools.** Such tools include geographical information system (GIS) mapping or web based mapping applications such as the Department’s Surface Water Data Viewer or the Natural Resource Conservation Service (NRCS) Web Soil Survey.
   1. Determine flow paths and the distance to water bodies, ground slopes, and other factors that may be relevant to the review. Some of this information will be confirmed later during the site visit but having an idea ahead of time makes for a more comprehensive site visit. Water bodies include those listed in the waters of the state definition.
   2. Review SnapMaps 590 and NR 243 Restriction Maps to look for mapped hazard features such as karst features and sensitive areas within the runoff flow path.

B. **Look at soils information.** The NRCS Web Soil Survey can provide some helpful information about the soils and landscape around the waste source as well as the predicted flow path between the source and receiving waters. Features such as soil types, infiltration rates, and depth to groundwater and bedrock can be helpful in determining potential discharge routes. Additionally, a list of soils with such susceptible features can be cross-referenced within the NRCS document “Wisconsin Conservation Planning Technical Note 1.” An appendix to this note contains the table “Soils List with High Potential for Nitrate Leaching to Groundwater.” It should be noted such information is typically for planning purposes only and an on-site soils investigation may still be needed.

C. **Look at past years aerial photography.** Identify trends of animal numbers, size of the farm, and potential frequency of direct runoff and/or significant discharge issues from historical aerial imagery. This can be accomplished with GIS mapping or mapping applications such as Google Earth.

D. **Time your site review.** It is best to view feedlot and milkhouse waste livestock facilities when vegetation is dormant and streams are flowing. When possible, spring and fall are the best seasons for site visits. Review of feed storages is best within the first 30 days after feed is stored as this is when most of the leachate is released. If site visits are done outside of the optimum times, a follow-up visit may be scheduled if a determination cannot be made at the time of the visit. If a follow-up visit is not possible, best professional judgment may be relied on.

E. **Watch the weather.** A discharge may be more observable immediately following a rain event capable of producing runoff from that livestock facility based on soil infiltration rates for most accurate runoff conditions. This is less relevant for milkhouse waste evaluations since milkhouse waste generation is not precipitation driven like runoff from a feedlot and feed storage area.

F. **Request and review engineering plans.** Often animal lots and feed storages have engineered practices such as sediment basins, Vegetated Treatment Areas (VTAs), or other practices to mitigate pollutant loading to waters of the state. If there is knowledge of the presence of this type of practice, the owner or government staff (county conservation, Department of Agriculture, Trade and Consumer Protection (DATCP) conservation engineering, or NRCS) may have copies of engineering plans which can then be evaluated to see if they comply with appropriate NRCS Standards. If the information is private, you may need to request from the owner the release of engineering plans and information related to the facility. Do your research by talking to partners to determine what has been done on the farm previously. This
information will also help you when talking with the landowner as your knowledge will show that you understand their farm.

G. *Review of existing water quality data, if available.* Although reviewing this data likely will not provide site-specific information, it can help identify if there is a known problem in the region or the watershed. Knowledge of this information can help identify site-specific issues during the evaluation, and facilitate a discussion with the landowner.

1. **Surface Water Integrated Monitoring System (SWIMS) database.** This resource provides chemical, physical and biological data.
2. **USGS maps** can help determine groundwater flow direction. Contact the USGS office to access this information.
3. **UW-Stevens Point Well Water Quality Viewer.** This is an educational tool only. The information offered through this tool can help you understand groundwater resources based upon voluntarily submitted well water samples.
4. **WI Geologic Natural History Survey’s Historic Well Construction Reports.** This website compiles historical well construction information.
5. **Department of Natural Resources well inventory information.** This site has links to well construction and geology information.
6. **Contact your regional DNR water quality biologist.**

H. *Be prepared to collect surface water samples.* Collection and water chemistry analysis of runoff discharge samples can be used to assess compliance. Sampling is not always needed. An appropriate reference on how to properly conduct sampling would be the “Guidance for Water Resource Biologists for Sampling Organic Waste Discharges to Surface Waters,” Wisconsin DNR, Feb. 2009. Standard department protocol is to offer split samples to the facility. Contact the Department if you feel a sample is appropriate, but your county does not typically collect water samples for analysis.

**Conducting the Site Visit**

A site visit is an important part of the process for determining direct runoff from feedlots or significant discharges from feed storage areas and milkhouse waste systems to waters of the state. Below are the components that may make this step more effective and valuable.

A. **Engage in conversation with the landowner.** Having open communication with the landowner allows for a better understanding of the current management style as well as the management style in the past and any history about the facility or specific structure being evaluated.

B. **Compare conservation practices to engineering plans.** If a copy of engineering plans for conservation practices was obtained as part of preparing for the site visit, check to see if the practices were constructed as planned and if they appear to be properly managed and maintained according to the operation and maintenance plan. If it was not known ahead of time such practices were present, make some notes about it during the site visit to compare to a potential engineering plan obtained later. For livestock facilities with a VTA, a visual check for a discharge leaving the VTA may be conducted to determine if a discharge to waters of the state is occurring.

C. **Collect adequate data.** Be prepared to walk the site and gather your own information based upon the facilities you are evaluating for the basis of the site visit. Conversation with the
landowner is often critical to gathering proper and comprehensive data. If you are likely to use a model later in the post-visit analysis, then keep this model in mind as you collect data to make sure you are gathering information for all the inputs you will need to run the model.

D. Document site visit and conclusions. Site visits can be documented with written notes and include maps, photographs, data collected in the field, model outputs, or any other information that supports the compliance determination. This documentation may include:
   1. An estimation of the volume and frequency of the discharge.
   2. Available evidence of direct runoff or a discharge to surface waters of the state or to a direct conduit to groundwater, or a site susceptible to groundwater contamination.
   3. Other factors relevant to show the impact of the direct runoff or a discharge on surface water or groundwater quality standards.

E. Universal factors to consider when evaluating feedlot, feed storage, and milkhouse waste facilities.
   1. Run-on contributing areas or upstream features.
      a. Identify roof areas contributing runoff to the facilities.
      b. Identify and characterize other contributing tributary areas upstream of or adjacent to the facilities that could carry nutrients or contaminants offsite. Note items such as hydrologic features needed to delineate drainage areas including slopes, slope lengths, and surface types for assigning runoff curve numbers as appropriate.
      c. Type of flow onto the facility (i.e. sheet flow or concentrated flow).
   2. Assess the direct runoff and/or process wastewater runoff flow path between the facility and nearest waters of the state.
      a. Inform the land owner that the site visit may require following the flow path of runoff for a long distance to waters of the state.
      b. Identify downstream water bodies or confirm water bodies determined with mapping tools where appropriate. Water bodies include those listed in the waters of the state definition.
      c. Identify the flow path to potential downstream water bodies noting whether it’s on the surface or subsurface such as through a tiling system. If a tile is present note whether there is a surface inlet or in-field tile line.
      d. Document flow path characteristics including cover type and identify whether the flow is channelized (i.e. a defined cross section), shallow concentrated (i.e. no defined cross section but may include large rills and shallow “V” depressions in the ground surface or otherwise have a depth of 0.1 to 0.5 feet), or sheet flow (i.e. shallow, uniform depth of approximately 0.1 feet or less).
      e. Calculate or estimate the slope of the flow path. Occasionally multiple slopes must be calculated to accurately define the flow path.
      f. Document any obstacles that could potentially deter the flow of pollutants such as impoundments or buffers whether designed and intentional or naturally occurring. Areas identified with sheet flow as described above are likely buffers. For buffers, approximate the dimensions, particularly the width that contributes to effective buffering with sheet flow conditions.

F. Factors to consider specific to evaluating feedlot facilities.
   1. Feedlot characteristics
a. Specific type of lot surfacing material and condition (asphalt, concrete, earthen, crushed stone).
b. How the surfacing material was constructed if applicable or known (i.e. was rebar used, thickness, etc.).
c. Feedlot dimensions also noting dimensions among different surfacing materials.
d. Presence of, type of, and condition of any walls or containment around the feedlot.
e. How does the runoff leave the lot (i.e. through a designed sediment basin, via a slotted wall, just out an open side, etc.).

2. Animals on lot
   a. Types
   b. Size/weight
   c. Numbers
   d. Animal time on the lot (i.e. hours, days, and seasons)
   e. Consistency of manure/waste characterization
      i. The type of feed/forage directly influences the consistency of the manure. For example, is it dry hay or high energy TMR?

3. Feedlot management
   a. Feeding locations and methods.
   b. Cleaning methods and frequency.

4. Presence of manure/contaminated runoff
   a. Look for any visible presence of manure runoff, including whether manure solids are leaving the lot and directly running off into waters of the state.
   b. Look for indicators of manure runoff such as burned vegetation.
   c. Determine the distance that evidence of runoff can be followed below the site.

G. Factors to consider specific to evaluating feed storage facilities.
   1. Feed leachate is considered process wastewater in s. NR 151.015(16), Wis. Adm. Code, which references s. NR 243.03(53), Wis. Adm. Code. For the purposes of this guidance, only s. NR 243.03(53)(d) applies to feed storage area evaluations.
   2. Feed storage area characteristics
      a. Type of storage area (i.e. a pad, bunker silos, upright silos, bags, etc.)
      b. Type and condition of surfacing material
      c. How the surfacing material was constructed if applicable or known (i.e. was rebar used, thickness, liquid tight concrete, etc.)
      d. Feed storage area size and dimensions
      e. Presence of, type of, and condition of any walls or containment around the feed storage area
      f. How does the runoff leave the feed storage area (i.e. just out an open side, via a channel, through a first flush containment structure, etc.)
   3. Feed storage management
      a. Feed type(s) and quantities being stored
      b. Handling methods and frequency
      c. Presence of any covers to exclude rainfall and whether covers are inside or outside of the walls in regard to bunker silos
      d. Presence and location of loose and/or spoiled feed
      e. Cleaning methods and frequency
   4. Presence of contaminated runoff
a. Look for any visible presence of contaminated runoff including whether leachate is leaving the feed storage area and discharging into waters of the state.
b. Look for indicators of contaminated runoff such as burned vegetation
c. Determine the distance that evidence of runoff can be followed below the livestock facility

5. Consider whether there may be significant discharge to groundwater based on other factors identified during the evaluation (condition, soils, construction and history of the structure)

H. Factors to consider specific to evaluations of milkhouse waste facilities.
   1. Milking center wastewater is considered process wastewater in s. NR 151.015(16), which references s. NR 243.03(53), Wis. Adm. Code. For the purposes of this guidance, only s. NR 243.03(53)(b) and (d) applies to milkhouse waste facility evaluations.
   2. Milkhouse system characteristics
      a. Daily wastewater volume
      b. Existing wastewater handling (get a clear description of the existing system since these systems are often not designed to any standard).
         i. How does the milkhouse leave the system (i.e. through a floor drain, pipe outlet, dry trench, holding tank or containment structure, etc.)
         ii. Try to determine the history and frequency of any problems with the system
   3. Presence of contaminated runoff
      a. Look for any visible presence of contaminated runoff including whether milkhouse waste is leaving the outlet of the system
      b. Determine the distance that evidence of runoff can be followed below the livestock facility

Post-Visit Analysis

Follow-up after a site visit may be helpful in properly documenting the site visit. The post-visit analysis uses the information collected during the site visit to make a determination of direct runoff or significant discharge. Depending on what was observed during the site visit, some of the items below may be needed for making a determination of a “predicted discharge to waters of the state.”

A. Evaluate existing BMPs. Existing BMPs can be compared to the current respective technical standards whether they were designed to standards or not, to determine their effectiveness of preventing direct runoff from feedlots and/or a significant discharge from process wastewater to waters of the state. If designed to technical standards, consider whether the operation and maintenance plan has been followed to keep the BMP functioning properly. The following are some examples where NRCS technical standards can be used to evaluate existing BMPs:
   1. NRCS technical guide waste treatment 629 standard provides criteria for different liner types. The feed storage structure or surface itself may be considered a BMP and the ability of the feed storage area to prevent groundwater contamination through the surface may be assessed. If the feed storage area surface was not designed to the relevant technical standard, it can still be beneficial to compare it to this standard.
2. **NRCS technical guide vegetated treatment area standard 635** lists physical limitations and the varying types of buffer areas that can be considered for treating runoff from different waste sources.

3. **NRCS technical guide waste storage facility 313** establishes minimum allowable limits for design parameters, acceptable installation processes, or performance requirements. Manure storage facilities and total capture runoff systems from feedlots and feed storage systems may be evaluated to this standard.

B. *Evaluate the barnyard runoff and/or process wastewater discharge flow path.* Channelized flow increases the likelihood of contaminated runoff reaching waters of the state, while sheet flow may provide more opportunities for nutrient uptake, volatilization, dilution and deposition. A lower flow path slope and/or flow obstacle would allow for better infiltration and nutrient uptake by any vegetation present in the flow path. Determining the slope will also assist with designing a future BMP if necessary. You may wish to attempt to calculate the effectiveness of the vegetative cover in reducing pollutant loads if possible.

C. **Use of models.** Modeling is not necessary for livestock facilities where a visual discharge is apparent during the site visit or has been documented through photographs, water samples, or other means. Where appropriate, use models such as the Barnyard Evaluation Rating Tool (BERT) and Wisconsin Barnyard Runoff Model (BARNY) or other appropriate phosphorus and/or nitrogen loading models as they become available to support site visit findings.

Although modeling tools are intended as ranking tools rather than an accurate method to calculate pollutant loadings, they may be considered as support for decisions made through best professional judgement.

### Making a Final Determination

A landowner complies with the prohibition under s. NR 151.08(4), Wis. Adm. Code if a feedlot has no runoff that can be predicted to discharge a significant amount of pollutants into surface waters or to a direct conduit to groundwater. A landowner complies with the prohibition under s. NR 151.055(2), Wis. Adm. Code if a feed storage area or milkhouse waste system has no significant discharge to waters of the state. Use documentation collected during a thorough livestock facility evaluation, supplemented with supporting information collected before and after the site walkover to determine if the livestock facility is in compliance with the agricultural performance standards and prohibitions.

Discharges to waters of the state, or conduits to groundwater can be established through observable conditions such as observation of manure or process wastewater flowing into a water source listed in the waters of the state definition. When a visible discharge is occurring, or has recently occurred and is apparent during the site visit, documentation of the visual discharge may include photographs or water samples, in addition to a written report describing the observations.

For cases where an actual discharge is not obvious, different guidelines are needed in circumstances of a “predicted discharge” to make a direct runoff or significant discharge determination. The evaluation of a predicted discharge may be based on several factors, including landscape characteristics and is assessed by identifying and evaluating the barnyard runoff and/or process wastewater discharge flow path. Since a predicted discharge can be less obvious than a visual discharge, use of available tools and resources, that can include mapping and modeling, are needed to document and support a determination about
the extent of the predicted discharge. Other factors to consider when making a final determination include:

A. The best management practice in place that may or may not meet design standard, but prevents direct runoff or significant discharge.
B. Whether the timing of the livestock facility evaluation is appropriate (i.e., after a rainfall or snowmelt event).
C. Whether there is an actual discharge to waters of the state from the runoff flow (i.e., distance to waters of the state, potential for groundwater contamination).
D. Whether the appropriate tools, such as BARNY or BERT for feedlot evaluations, or other appropriate phosphorus and/or nitrogen loading models used to help guide or support the determination.
E. The documented results of the evaluation adequately quantify best professional judgment.

In situations where compliance is very difficult to determine, consult with a partnering agency, such as DNR, DATCP, NRCS, or another county conservation professional prior to making a final determination about a facility predicted to have direct runoff and/or significantly discharge to waters of the state.

**Communicating compliance:** Once a compliance determination is made, that determination, and the reasoning behind it, should be clearly communicated to the landowner. The landowner is required to either achieve or maintain compliance based upon the determination. Requirements to comply with the results of the compliance determination are described in the implementation and enforcement procedures for livestock performance standards and prohibitions in s. NR 151.095, Wis. Adm. Code. **Livestock facilities determined to be non-compliant with NR 151 performance standards and prohibitions, should be documented with a NR 151 non-compliance letter to the landowner. The Department requests a copy of the NR 151 notice be provided to the regional DNR NPS Coordinator for shared understanding of performance.**

It is important to reinforce that the compliance determination is valid based on conditions at the time of the evaluation. Clearly communicate to the landowner that once compliance with existing performance standards and prohibitions in NR 151 is achieved, this compliance status must be maintained in perpetuity regardless of future financial assistance or change in ownership. **Livestock facilities determined to be compliant with NR 151 performance standards and prohibitions, should be documented with a NR 151 compliance letter to the landowner. The Department requests a copy of the NR 151 compliance notice to be provided to the regional DNR NPS Coordinator for shared understanding of performance.**

When the determination is made by the department, we inform the landowner that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., the owner must file their petition with the appropriate circuit court and serve the petition on the Department within the prescribed time. Such a petition for judicial review must name the Department of Natural Resources as the respondent.

**Considerations for Achieving Compliance**

While achieving compliance is not the focus of this document, the following items are considerations for the next step of assisting a landowner with achieving compliance:
A. Based upon livestock operation eligibility, inform the landowner that cost-share funds may or may not be available for compliance.

B. Control runoff through use of best management practices following applicable NRCS technical standards for design and implementation. Best management practice examples include the following:
   1. Feedlot - roof gutters, clean water diversions, roofs, vegetated treatment areas, runoff containment, and/or settling basins.
   2. Feed Storage Area - runoff containment with or without transfer to storage, vegetated treatment areas, clean water diversions, and/or roofs.
   3. Milkhouse Waste - dosing tank with vegetated treatment area, short-term storage, and/or transfer to long-term storage.

C. Discuss with the owner cost share eligibility and options for achieving compliance. Consider low-cost alternatives or operation changes for compliance that reduce or eliminate the discharge such as:
   1. Feedlot
      a. Graze cattle on nearby fields or adjust lots to be narrow and on the contour.
      b. Improve management by collecting feedlot manure on a consistent basis and field applying in accordance with a nutrient management plan.
      c. Move animals away from concentrated/channelized flow paths that lead to waters of the state.
      d. Reduce the time animals are on the lot.
      e. Reduce the number of animals on the lot.
   2. Feed Storage Area
      a. Monitor crop moisture to ensure harvested feed moisture produces minimal leachate and high-quality feed.
      b. Locate feed storage structures away from concentrated/channelized flow paths that lead to waters of the state.
   3. Milkhouse Waste
      a. Relocate outlet away from concentrated/channelized flow paths that lead to waters of the state.

References
For additional information on determination of compliance with the agricultural performance standards and prohibitions, refer to the following:

- [Chapter NR 151, Wisconsin Administrative Code](#)
- [Chapter NR 243, Wisconsin Administrative Code](#)
- [Chapter ATCP 50, Wisconsin Administrative Code](#)
- [Chapter ATCP 51, Wisconsin Administrative Code](#)
- [USDA NRCS Wisconsin Conservation Practice Standards](#)
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