

ATCP 50 NUTRIENT MANAGEMENT REVISIONS

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Background

In 1997, Wis. Act 27 passed and the legislature directed the Wisconsin Department of Natural Resources (DNR) to prescribe performance standards and prohibitions that farms in Wisconsin will need to meet. The legislature mandated that these performance standards must be designed to reduce non-point source pollution and improve water quality. Act 27 also directed the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) in conjunction with DNR to promulgate rules that prescribe technical standards and best management practices farmers must follow to meet the performance standards. In October 2002, the rules were promulgated into law. DNR administrative code NR 151 identifies the agricultural performance standards for Wisconsin and DATCP administrative code ATCP 50 sets the technical standards that farmers will need to follow to implement the performance standards.

ATCP 50 also sets the statewide standards for nutrient management. At the time the rules were promulgated into law Wisconsin was in the process of developing a phosphorus based nutrient management standard. Since the standard was not completed at the time the rules were taken to public hearing DATCP incorporated the existing USDA Natural Resources Conservation Service (NRCS) 590 technical standard dated March 1999. This standard primarily limits manure applications based on the nitrogen need of the crop to be grown. As a part of ATCP 50, the department made a commitment to initiate rulemaking by January 1, 2005 to adopt the new phosphorus based nutrient management standard if NRCS has a standard by that date. In 2004 NRCS updated their 590 standard to include phosphorus management strategies and came up with a draft NRCS 590 nutrient management standard dated November 2004. This is the 590 standard that DATCP is proposing to incorporate into ATCP 50 in 2005.

Why Phosphorus Based Nutrient Management

In order to get consistency in programs, alleviate confusion and move forward with implementing nutrient management in Wisconsin we need one nutrient management standard for all of our programs. Currently Wisconsin is using multiple nutrient management standards for our various programs. Below are examples of rules and programs that do or will require phosphorus based nutrient management plans:

- **EQIP** - USDA NRCS cost share program
- **NR 243** - WPDES permit CAFO regulations
- **NR 151** - Agricultural performance standards
- **ATCP 51** - Sets statewide standards for new or expanded livestock operations
- **ATCP 50** - Incorporate P-based 590 standard
- **ATCP 40** - Distribution of manipulated manure will need a license, exempt from license and paying tonnage fee if going to fields complying with ATCP 50.04

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ATCP 50 Code Revisions

DATCP is proposing to make the following changes to Administrative Code ATCP 50 in 2005.

- Incorporate the draft November 2004 version of the NRCS 590 standard. This standard includes two phosphorus management options: use of the Phosphorus Index or base nutrient applications on the soil test phosphorus levels in the soil.
- Re-formulate one of the qualified nutrient management planner options. A person may no longer qualify by being on the American registry of certified professionals in agronomy, crops and soils. But a person may qualify by being registered as “a soil scientist by the Soil Science Society of America, or as a professional agronomist by the American Society of Agronomy.” This reflects a change in registration practices by the relevant professional societies.
- Manure nutrient values in a nutrient management plan need to be based on one of the following:
 1. Standard “book values” specified in Wisconsin Conservation Planning Technical Note WI-1, Companion Document to NRCS Field Office Technical Guide Standard 590, Nutrient Management.
 2. Manure analyses conducted at a laboratory that meets the following standards:
 - The laboratory participates in the manure analysis proficiency program administered by Colorado State University, and provides copies of proficiency reports to DATCP upon request.
 - The laboratory can perform manure analyses according to methods prescribed by the University of Wisconsin-Extension in “Recommended Methods of Manure Analysis,” UWEX Publication A3769 (2003).
- Nutrient applications in a nutrient management plan must follow the recommendations in UW Publication A2809, Soil Test Recommendations for Field, Vegetable and Fruit Crops unless one of the following situations justifies a deviation from the recommendations.
 1. Soil or tissue test reveals a specific nutrient deficiency
 2. Excess nutrients are the result of an unforeseen change in the type of crop to be planted
 3. Excess nutrients are the result of manure applications made in the last year prior to writing or implementation of the nutrient management plan
 4. Other special agronomic conditions documented by the planner

The proposed revisions to ATCP 50 will have no effect on the previously established effective dates for the nutrient management rules nor does it change the current cost share requirements. Enforcement of nutrient management standards will still be contingent on the availability of cost sharing. There will be some livestock operations that will need to comply with nutrient management requirements regardless of cost sharing. Those who will be required to comply without cost sharing will include:

- Operators who need a WPDES pollution discharge permit under NR 243 (mainly operations over 1000 animal units)

- Operations who need a permit, under a local manure storage ordinance, for voluntarily construction of a manure storage facility
- Operators who need a local permit for a new or expanded livestock facility with 500 or more animal units according to DATCP's proposed livestock facility siting rule (ATCP 51).

Rule documents for the proposed ATCP 50 revisions may be viewed at the following website:
<http://www.datcp.state.wi.us/arm/agriculture/land-water/conservation/nutrient-mngmt/planning.html>

Other Rules Affected by ATCP 50 Revision

ATCP 51 LIVESTOCK FACILITY SITING LAW - In 2004, the Wisconsin legislature passed the Livestock Facility Siting Law (2003 Act 235). This law is designed to set statewide standards for siting of new or expanded livestock facilities in Wisconsin. This law applies to only new or expanded livestock facilities that are in areas that require local approval and have more than 500 animal units (or exceeds a lower threshold incorporated into local zoning ordinance prior to July 19, 2003). Nutrient management is one of the standards these operations will need to meet in order to get approval under this rule.

ATCP 51 Waste and Nutrient Management Requirements

Livestock operators must manage manure and other waste responsibly. A waste and nutrient management worksheet must accompany every application for local approval. The completed worksheet must include all of the following:

- The types and amounts of manure and other organic waste that the livestock facility will generate when fully populated.
- The types and amounts of waste the operator will store, the waste storage facilities and methods the operator will use, the intended duration of waste storage, and the capacity of waste storage facilities.
- The final disposition of waste by landspreading or other means.
- The acreage available to the operator for landspreading (adequate acreage helps prevent excessive nutrient applications).
- A map showing where the operator proposes to landspread nutrients.
- A nutrient management checklist. This checklist is not required for a livestock facility with fewer than 500 "animal units" unless the operator's ratio of acres to "animal units" 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.

A qualified nutrient management planner must complete the nutrient management checklist (if required). The planner must answer key questions to show that the livestock operation will comply with NRCS nutrient management standards (proposed NRCS 590 standard dated November 2004). However, a livestock operator is not required to submit a complete nutrient management plan with the application for local approval.

The nutrient management planner must have documentation to support the planner's answers to checklist questions. The planner is not required to submit that documentation with the checklist. But the political subdivision may ask the planner to submit the planner's documentation for one or more answers, as necessary.

ATCP 40 FERTILIZER AND RELATED PRODUCTS – Wisconsin's fertilizer rule, administrative code ATCP 40 is undergoing revisions and is planned to go out to public hearing in 2005. The proposed revision redefines manipulated manure and also creates a license and tonnage fee exemption for the distribution of manipulated manure in certain circumstances.

New manipulated manure definition contained in proposed ATCP 40.

- Manure that is ground, pelletized, mechanically dried, packaged, supplemented with plant nutrients or other substances, or otherwise treated in a manner designed to facilitate sale or distribution as a fertilizer or soil or plant additive. "Manipulated" manure does not include unpackaged manure that is modified solely as an incidental result of normal on-farm practices such as the following:
 - (a) Addition of bedding, sand or water for purposes of animal husbandry or barn cleaning.
 - (b) Shredding, grinding or agitating for purposes of manure handling or removal from a manure storage system.
 - (c) Drying incidental to mechanical ventilation of animal confinement areas.

The proposed rule also creates a license and tonnage fee exemption for bulk manipulated manure that is applied to land currently implementing a nutrient management plan that complies with ATCP 50.04 (proposed NRCS 590 standard dated November 2004). Manure that is manipulated and distributed to lands not complying with ATCP 50.04 will need a fertilizer license and will also need to pay tonnage fees on that manure.

Conclusion

Wisconsin's goal to have a nutrient management plan in place on every cropland acre in the state is a daunting task. This task can be made easier by streamlining these rules and requiring one nutrient management standard for the state. Having one nutrient management standard that applies to everyone will lead to greater consistency in all programs and allow all producers to know where they stand and what they will have to do in the future.