



United States Department of Agriculture



March 15, 2016

TO: All staff with NRCS Engineering Job Approval Authority (EJAA) and DATCP Conservation Engineering Practitioner Certification for Vegetated Treatment Area, Code 635, and Waste Treatment, Code 629

SUBJECT: Co-approval by Area Engineer and holder of EJAA/Certification


The current criteria in NRCS Conservation Practice Standards (CPS), Vegetated Treatment Area (VTA), Code 635, and Waste Treatment, Code 629, states that the practice shall comply with all federal, tribal, state, and local laws, rules, or regulations.

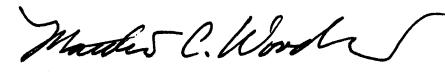
One federal law that has gained more attention lately is discharge to waters of the United States contained within the Clean Water Act. Specifically, discharges of pollutants from runoff events resulting from a rainfall event up to a 25-year, 24-hour duration are prohibited. The US Environmental Protection Agency (EPA) has performed on-site investigations of livestock operations that are less than 1000 animal units following rainfall events that were less than the 25-year, 24-hour storm. The owners have been cited for discharges to waters of the United States by the EPA. The current CPS 635 provides criteria to minimize discharges of pollutants but not prevent discharges to surface waters and flow channels that lead to surface waters. The EPA has advised Wisconsin DNR that neither VTAs nor the NRCS design standards for VTAs will ensure the required “no discharge” level of performance in order to meet federal CAFO requirements.

We are temporarily modifying the NRCS Engineering Job Approval Authority and DATCP Conservation Engineering Practitioner Certification to require co-approval for the Planning and Design components of practice codes 635 and 629. Effective the date of this memo, this restriction requires that all projects involving planning or design work must be sent to NRCS Area Engineers or DATCP Engineers located at the NRCS Area Office for their approval. These designated area staff will determine whether a project meets the “no discharge” standard under federal law. We will be providing further guidance to them on needed documentation to verify “no discharge”. We anticipate that we will revisit this approval authority following the revision of CPS 635 later this year.

This is not intended to impact compliance determinations made under chapter NR 151 and ATCP 50, Wisconsin Administrative Code. County technicians and others may continue to make determinations regarding the existence of a significant discharge from feed storage or direct runoff from a feedlot.

These actions are in the best interest of service to our clients and minimizing their risk of violations.


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