

MINUTES
LIVESTOCK FACILITY SITING TECHNICAL EXPERT COMMITTEE

March 6, 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 **March 6, 2023**. The meeting was preceded by public notice as required by Wis. Stat. § 19.84. The meeting was called to order at **12:00 pm**.

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, Matt Woodrow, Dennis Marquardt and Katy Smith of DATCP were present. Bernie Michaud and Tyler Dix of DNR were present. Beth Peterson and Steve Becker of NRCS were present.

The Committee reviewed the minutes of the January 27, 2023 meeting of the Committee meeting and offered no revisions.

Item #2 Review waste storage facility NRCS conservation practice standards (CPS) 313 (Nov 2004), NRCS CPS 634 (Nov 2004) and other developments in the CPS for waste storage facilities.

Tim Jackson, DATCP, reviewed [ATCP 51.18, Wis. Admin Rule](#), and [ATCP 51, Appendix A, Worksheet 4](#) with the Committee. Dennis Marquardt, Conservation Engineer, DATCP delivered a presentation on technical changes between the NRCS CPS 313 (2004) and NRCS CPS 313 (2017) standard, and between the NRCS CPS 634 (2004) and NRCS CPS 624 (2022) standard. 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 waste storage facility standard. The Committee discussion guide is available within the [March 6th Meeting Materials](#) which are accessible on the Committee's [webpage](#). Marquardt and Matt Woodrow, DATCP; Tyler Dix and Bernie Michaud, DNR; and Beth Peterson and Steve Becker, NRCS were available to answer technical questions related to the waste storage facility conservation practice standards in an advisory capacity.

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

- 1. What is and what is not working with the existing ATCP 51 standard for waste storage facilities?**

The Committee discussed that most counties which have manure storage ordinances already use the updated CPS. As a result, most livestock siting applicants are likely already meeting the updated CPS in counties where those manure storage ordinances exist. Private engineering consultants are also accustomed to meeting the updated CPS, even in areas where those manure storage ordinances don't exist.

The Committee also noted that livestock facility siting law is intended to set uniform expectations and regulations for livestock facility operators. Using outdated CPS are therefore not meeting the intent of the law. Some members suggested using references to Wis. Admin. Rule ATCP 50 in order to achieve uniform expectations and consistency across state programs.

The Committee identified that the referenced version of NRCS CPS 360 is different in ATCP 51.18(4) (Dec, 2002) and in Worksheet 4 (June, 2001).

2. Do the ATCP 51.18 waste storage facility standards meet the obligation of s. 93.90(2)(b)1-7?

The Committee expressed that while the updated CPS do have additional costs when compared to the outdated versions currently in rule that most facilities are already being designed to the updated CPS. The committee discussed that the biggest changes between the CPS referenced in ATCP 51 and updated CPS are the required separation distances and liner standards, but that only new and substantially altered waste storage structures would need to meet an updated CPS if incorporated into a revision of ATCP 51. Peterson advised that part of the reason that the CPS have been updated by NRCS is to account for the change in manure consistency over time.

The Committee also discussed the criteria for evaluating existing waste storage structures under ATCP 51.18(2). Substantially altering those evaluation criteria for existing structures could cause them to become impractical due to the associated costs to come into compliance. However, the existing criteria may not be protective enough of ground and surface water. NRCS uses a workflow to evaluating existing waste storage structures to the 2009 version of NRCS CPS 313 for comprehensive nutrient management plans, and DNR uses a visual observation-based checklist to evaluate existing waste storage structures for its CAFO program. The Committee opted to continue this discussion further, under question #5 "Should the criteria in ATCP 51.18(2) to prove compliance for existing waste storage facilities be revised?".

1. Should ATCP 51.18 be revised to require compliance with the updated versions of the CPS for waste storage facilities and their associated standards? Or should ATCP 51 reference ATCP 50 to match other state program requirements?

The Committee asked if cost-share is offered for designing to the updated CPS. While cost-share is not required under a livestock siting approval, other programs may require some form of cost-share to comply with updated CPS. Most waste storage facilities are already being designed to the newer CPS, especially given the prevalence of county manure storage ordinances.

The Committee also discussed using a reference to ATCP 50 instead of another dated version of the CPS. This could remedy the current conflicts with other programs and ordinances, such as county manure storage ordinances. ATCP 50 has historically been updated more often than ATCP 51, although this may not be the only consideration for The Committee. Woodrow clarified that Administrative Rules can incorporate a newer version of CPS, without opening the entire rule up for revision, if those technical changes are not considered substantial updates. This could expedite updates to the CPS in ATCP 51 when appropriate.

2. Should the worksheet 4 exemption for WPDES permit holders under 51.18(7) remain? If yes: Should additional documentation from WPDES permit applicants be required as part of the exemption? What information would be helpful?

The Committee asked what the WPDES permit evaluation is like for CAFOs, and what is on the CAFO factsheets for waste storage, which was recommended for inclusion in the exemption requirements during the January 27th meeting. WPDES permits are evaluated for approval of new, substantially altered and existing waste storage structures. Advisors reported that CAFOs generally meet the most up-to-date versions of the CPS. The CAFO factsheet does include a paragraph about each waste storage facility but does not include engineering details. The Committee discussed the value of requiring copies of waste storage documentation from a WPDES permit up front in a livestock siting application. It may be helpful in some situations, but for town-level review especially it may be less efficient to increase the technical documents provided for a WPDES exemption. The Committee was in favor of the exemption remaining in place.

3. Should the criteria in ATCP 51.18(2) to prove compliance for existing waste storage facilities be revised?

The Committee discussed the five listed criteria and identified criteria (c) specifically as needing evaluation. The Committee discussed if DATCP could evaluate all the criteria, but specifically (c), as an area of the rule that may not currently be working. Some further evaluation outside of a visual inspection may be necessary for structures which fall under criteria (c), which would be greater than 10 years old. Often, the original as-builts are no longer available for those structures.

4. 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?

The Committee discussed that a time-based storage requirement could qualify less of a risk for land applications when conditions would promote runoff, such as during winter months. Some risks are location dependent. CAFOs currently have a 180 days of storage requirement through their WPDES permit. But some operations just below the threshold may be presenting a higher risk of runoff from land applications without that 180-day requirement. It may be more equitable to require facilities under CAFO size to have a time-based storage requirement. The Committee did identify that an updated (2015) NRCS 590 requirement for nutrient management plans does incorporate restrictions for areas and times of high risk for runoff from land applications. However, monitoring for correct implementation of a nutrient management plan could be more difficult than a time-based storage requirement.

The Committee offered the following recommendations:

The Committee, as a consensus, recommends that DATCP review the definition for “substantially altered” under [ATCP 51.01\(40\)](#) to determine if it properly applies in all scenarios.

The Committee, as a consensus, recommends updating 51.18 to incorporate the newest conservation practice standards for new and substantially altered waste storage facilities. DATCP should consider what the best vehicle for achieving that recommendation is, whether that be through cross-referencing another state rule, such as ATCP 50, or directly referencing dated versions of those conservation practice standards.

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 51.18(7) for Worksheet 4 of the application.

The Committee, as a consensus, recommends that DATCP review the criteria for evaluating existing waste storage facilities under ATCP 51.18(2), specifically criteria (c).

Part of the Committee recommends that the nutrient management standard should remain the focus of waste management, rather than a size-based or time-based waste storage capacity requirement. Updating the NRCS 590 standards for nutrient management plans would address that.

Item #3 Break

Jackson informed the committee that they were nearing the end of their scheduled meeting time. The Committee had the option to either start the next agenda item and run until the end of the meeting time or adjourn now and start the next agenda item at the scheduled follow-up meeting. The Committee elected to take a 5-minute break and start the next agenda item.

Item #4 Review runoff management NRCS conservation practice standard (CPS) 635 (Jan 2002), using BARNY to model predicted phosphorous runoff for existing animal lots, feed storage CPS and new developments in the CPS

Jackson reviewed [ATCP 51.20, Wis. Admin Rule](#), and [ATCP 51, Appendix A, Worksheet 5](#) with the Committee. Matt Woodrow, Manager - Conservation Engineering Section, DATCP delivered a presentation on technical changes between the NRCS CPS 635 (2002) and NRCS CPS 635 (2016) conservation practice standard, and modeling predicted runoff from animal lots. The [presentation](#) is available on the Livestock Facility Siting Technical Expert Committee's [webpage](#).

The meeting was adjourned at 4:05 pm.