

MINUTES
LIVESTOCK FACILITY SITING TECHNICAL EXPERT COMMITTEE

March 13, 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 13, 2023**. The meeting was preceded by public notice as required by Wis. Stat. § 19.84. The meeting was called to order at **1:00 pm**.

Members Present

Members: Scott Frank, Nikki Wagner, Travis Drier, Emily Micolichak, AV Roth, Jay Heeg, Curtis Hedman, Matt Zangl and Gaylord Olson were present. Mike Koles was absent.

Staff: Tim Jackson, Alex Elias, Matt Woodrow, Dennis Marquardt and Katy Smith of DATCP were present. Bernie Michaud and Tyler Dix of DNR were present. Beth Peterson of NRCS was present.

This meeting is a continuation of the agenda from the March 6 meeting.

Item #2 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

Tim Jackson, DATCP, reviewed historical recommendations of previously convened Technical Expert Committees and facilitated a discussion on the livestock facility siting runoff management standard. The Committee discussion guide is available within the [March 13th Meeting Materials](#) which are accessible on the Committee's [webpage](#). Dennis Marquardt and Matt Woodrow, DATCP; Tyler Dix and Bernie Michaud, DNR; and Beth Peterson, NRCS were available to answer technical questions related to the runoff management 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 runoff management?

The Committee discussed the BARNY model's use compared to the BERT and APLE-lots models for calculating phosphorous runoff potential. The Committee also recognized that NRCS CPS were updated according to needs at the time. The committee noted that the exception to collecting discharge and leachate for high-moisture feed storage on less than one acre in size in ATCP 51.20(3)(b)2 may not be protective enough of surface waters. The Committee also identified that many other county ordinances reference newer CPS for runoff management and using outdated versions in ATCP 51 creates inconsistencies with other local regulation. The Committee discussed what runoff management requirements apply to CAFOs. CAFOs must have zero discharge to waters of the state, so they are held to a more stringent requirement than facilities permitted under ATCP 51 currently.

2. Do the ATCP 51.20 runoff management standards meet the obligation of s. 93.90(2)(b)1-7?

The Committee expressed that copies of old versions of NRCS CPS can be hard to find and administering them alongside other local ordinances that apply different CPS is difficult. Most livestock facilities are meeting the newer version of CPS as required elsewhere, and most private consultants want to use the newest versions. The Committee discussed the effect of applying a newer version of CPS on farms under the CAFO threshold and potential impacts on expansion efforts. The changes to NRCS CPS 635 in 2012 were substantial compared to the 2002 version. The newer versions address additional areas for runoff risk compared to the older versions. However, application of this standard could incur additional costs or prohibitions on existing facilities with environmentally sensitive areas when expanding. The Committee affirmed that updated CPS would only apply to new or substantially altered animal lots and feed storage structures.

3. Should ATCP 51.20 be revised to require compliance with the updated versions of the CPS for runoff management, including other relevant CPS? Or should ATCP 51 reference ATCP 50 to match other state program requirements?

The Committee discussed that updating NRCS CPS 635 would include CPS requirements for feed storage where the 2002 version has none. Doing this would likely require the removal of language currently in ATCP 51 meant to specifically address feed storage in the absence of a proper CPS. The Committee again identified that outdated CPS creates conflict with other local ordinances. Referencing ATCP 50 may be better for creating consistency across programs and locally adopted regulations. The Committee affirmed updated standards in ATCP 51 would only apply to new permits, not those previously approved.

4. Should the worksheet 4 exemption for WPDES permit holders under 51.20(10) remain? If yes: Should additional documentation from WPDES permit applicants be required as part of the exemption? What information would be helpful?

The Committee discussed that some consultants for WPDES permitting facilities provide thorough documentation to a livestock facility siting regulatory authority up front, if they know what staff need to verify compliance with runoff management standards, including the BARNY model. The committee discussed that the option for a local permitting authority to request additional documentation to substantiate information provided in an application should remain an option. The approval process for facilities and permitting authorities should be efficient when a WPDES permit is used as an exemption from worksheets. The Committee acknowledged their previous recommendation to add the CAFO factsheet as a required submission with a copy of the WPDES permit. Additional documentation may be helpful for local staff to request as well.

5. Is BARNY still the most acceptable runoff model for compliance with (updated) runoff management CPS?

The Committee discussed that BARNY is still the best model for predicting an output in pounds of phosphorous. If there will continue to be a requirement in ATCP 51 that refers to an output in predicted pounds of phosphorous, sticking with BARNY is the right model. Additional field observations could be added to Worksheet 5, such as the DNR guidance on determining direct runoff from animal lots. Additional professional judgement may strengthen the presumption of compliance for existing lots and structures. The Committee identified that if the required CPS were updated, Worksheet 5 would need to be wholly revised to accommodate it.

The Committee offered the following recommendations:

The Committee, as a consensus, recommends that DATCP consider the WPDES permit timeline and aim for better consistency between it and local siting approval, specifically the requirement for submission of engineering designs.

The Committee, as a consensus, recommends updating 51.20 to incorporate the newest conservation practice standards for new and substantially altered animal lots and feed storage structures. 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 that existing feed storage structures should be required to be evaluated for risk of discharge or leaching.

Part of the Committee recommends that DATCP review the 70% moisture threshold for feed storage runoff management standards to determine if it is still the appropriate number.

Item #3 Preparing for the Next Meeting

Jackson advised the committee that the next meeting would focus on review of the Livestock Facility Siting Setbacks and Odor and Air Emissions standards ([ATCP 51.12 and 51.14, Wis. Admin Rule, ATCP 51, Appendix A, Worksheet 2](#)). The committee should expect a survey of their availability for the week of April 10th during the next few days. A packet of materials for the committee to prepare, including an agenda and discussion guide, will be sent at least one week in advance of the next scheduled meeting.

The meeting was adjourned at 3:31 pm.