

**BOARD OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
MINUTES**

October 21, 2019

The Board of Agriculture, Trade and Consumer Protection (“Board”) met on **October 21, 2019**, via teleconference and in the DATCP Boardroom, 2811 Agriculture Drive, Madison, WI 53718. The meeting was preceded by public notice as required by Wis. Stat. § 19.84.

Call to Order

Board Chair Miranda Leis relinquished Chair responsibilities to Board Counsel Jane Landretti due to participating via teleconference. Board Counsel Jane Landretti called the meeting to order at 12:32 p.m.

Members Present

Via teleconference: Miranda Leis, Paul Bauer, Andy Diercks, Patty Edelburg, Paul Palmby, Carla Washington, and Greg Zwald

In Person: Dan Smith

**ATCP 51 – Livestock Siting
Update on Final Rule Changes**

Lacey Cochart and Chris Clayton, from the Division of Agricultural Resource Management, presented a summary of the final rule changes for Wis. Admin. Code ch. ATCP 51, to the Board. The final rule changes below were considered by comments made in public hearings and written comments, along with the Division speaking to many agricultural groups, county and town associations, the Farm Bureau, pork producers, and engineers.

Definitions: The final draft rule definition has been changed for a livestock structure and will now include buildings used to incinerate or compost dead livestock. The 100-300 foot setback will apply to those structures. Greg Zewald asked if there is a timeframe for completion of structures and the answer is that they will be grandfathered.

Duration of Local Approval: The final draft rule will now include that construction of a runoff control structure will need to be completed within 1 year. This was expanded because it is difficult to control weather for building purposes.

Setbacks and Odor Management Standards: The final rule is similar to the hearing draft rule for manure storage and high odor housing. At expended livestock facilities the setbacks are reduced from 350 to 1450 from a property line. For new livestock facilities, the maximum property line setbacks apply (1050 for Category 2 and 1450 for category 1) to manure storage and high odor housing. The final rule allows reduced setbacks for installation and maintenance of odor control practices, including parcels adjacent to the facility.

The property line definition is unchanged in the final rule. Also, the property line setbacks from manure storage and high odor housing to hold feed or have an ownership interest, would have an opportunity for an easement or other permanent legal interest in the parcel, which would allow for a reduced setback. These changes all came out of public comments and were incorporated in the final rule.

Runoff Management Standard: We received quite a bit of public comments about the runoff management standard. The final rule changes the runoff controls required at a new or substantially altered feed storage structure that store or handle feed with 40% or more moisture.

Waste Storage Facilities Standards: The final rule clarifies that pits are to be emptied to the “extent possible”. If emptying or entering an underbarn pit or slurry store is not feasible, alternative methods including test pits and soil borings can be used to check that the pit is not significantly leaking. Dan Smith asked if there are different time intervals for re-evaluation of pits. The answer is the re-evaluations would occur at a new permit or permit modification. It depends on how old the pit is and when the last time it was evaluated for continuous use. There are only a handful of facilities that have been permitted 2 or 3 times.

Local Implementation: The final rule clarifies the use of permit modifications either for new or altered livestock structures, or a one-time addition of up to 20% more animal units, but no more than 800 animal units.

Fees: The final rule does not put a cap on local fees due to lack of statutory authority. Board Counsel Jane Landretti summarized Act 108 and Act 21 restrictions on agency authority. The final rule also does not restrict requiring financial assurance due to the lack of statutory authority for DATCP.

Greg Zwald will not be able to attend the November meeting and asked to attend via teleconference.

ATCP 94 – Petroleum and Other Liquid Fuel Products Review of Notice of Public Hearing for SS 071-19

Board Counsel Jane Landretti and David Woldseth from the Division of Trade and Consumer Protection presented the Notice of Preliminary Public Hearing for Wis. Admin. Code ch. ATCP 94, to the Board. Board Counsel Landretti gave a brief overview of Wis. Stat. § 227.136 (1) which allows JCRAR to order a preliminary public hearing and comment period on a proposed statement of scope. David Woldseth held the hearing on September 6, 2019. No one attended the hearing and the Division only received one comment, which they could not respond to because it addressed the rule.

Motion

A motion was made by Miranda Leis and seconded by Andy Diercks to approve the notice of public hearing for Wis. Admin. Code ch. ATCP 94. Motion was approved unanimously.

Adjournment

Motion

A motion to adjourn was made by Dan Smith and seconded by Patty Edelburg. Motion approved unanimously.

The Board adjourned at approximately 1:39 p.m.

Miranda Leis, Board Chair

Paul Palmby, Secretary

All reports and any associated documents presented during a Board meeting can be accessed by contacting the Office the Secretary, Legal Counsel at (608) 224-5023.