

MINUTES
LIVESTOCK FACILITY SITING TECHNICAL EXPERT COMMITTEE

January 27, 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 **January 27, 2023**. The meeting was preceded by public notice as required by Wis. Stat. § 19.84. The meeting was called to order at **9:00 am**.

Members Present

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

Staff: Tim Jackson, Tim Anderson, Alex Elias, Cody Calkins, Andrea Topper and Katy Smith of DATCP were present. Aaron O'Rourke and Tyler Dix of DNR were present.

Curtis Hedman, member of the 2022-2023 Livestock Siting Technical Expert Committee formally introduced himself. Hedman is a Research Scientist and Toxicologist with the Department of Health Services. Hedman previously worked as an Environmental Scientist with the State Lab of Hygiene.

The Committee reviewed the minutes of the December 2022 meeting of the Technical Expert Committee meeting and offered no revisions.

Item #2 Review nutrient management technical standard NRCS 590 (Sept 2005) and new developments in the standard.

Jackson reviewed [ATCP 51.16, Wis. Admin Rule, ATCP 51, Appendix A, Worksheet 3 with the Committee](#). Cody Calkins, Conservation Specialist, DATCP delivered a presentation on technical changes between the NRCS 590 (2005) and NRCS 590 (2015) standard, including the incorporation of winter spreading restrictions and prohibitions, as well as the nitrogen application prohibitions and restrictions. 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 nutrient management standard. The Committee discussion guide is available within the [January 27th Meeting Materials](#) which are accessible on the Committee's [webpage](#). Cody Calkins, Andrea Topper, DATCP and Aaron O'Rourke, Tyler Dix, DNR were available to answer technical questions related to the nutrient management standard in an advisory capacity.

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

1. What about the current ATCP 51.16 standard for nutrient management is working, and what is not?

The Committee could not identify any other local programs or permits that use the 2005 version of NRCS 590 and suggested its use is outdated. SnapPlus, the software that is used to prepare nutrient management plans is already designed to help users meet the 2015 version of NRCS 590.

The Committee also noted that livestock facility operators are not currently authorized to prepare their own nutrient management plans in ATCP 51.16. There is value in affording qualified producers the option to do so. There are existing criteria in ATCP 50.48(2), Wis. Admin. Rule to qualify operators to prepare their own plans.

2. Does the 2005 version of the NRCS 590 meet the obligation of s. 93.90(2)(b)1-7?

The Committee discussed that the standard was updated for a reason in 2015 and that failing to update ATCP 51.16 to match does not meet the obligations of s. 93.90(2)(b)1-7

The Committee further articulated:

- There may be potential financial benefits in authorizing qualified producers to write their own plans. Affording this option may make the 2015 version of NRCS 590 more accessible as that is the standard SnapPlus is built to assist users prepare plans for.
- There may be some slightly lower upfront costs to producers associated with developing a plan to meet the 2005 version of NRCS 590 but the long-term savings and efficiencies of the 2015 version outweigh those.
- It would be difficult for a producer to show compliance specifically with the 2005 version of NRCS 590 outside of the checklist, because SnapPlus is designed to help users meet the 2015 version of NRCS 590. Furthermore, it may be difficult for a permitting authority to verify compliance with the 2005 of NRCS 590.

3. Should ATCP 51.16 be revised to require compliance with the 2015 version of NRCS 590? Or should ATCP 51.16 reference ATCP 50 to match other state program requirements?

The Committee asked if NRCS 590 is set to be updated again anytime soon. Advisors responded that it might be opened for revision this year (2023). Some areas of the state have chosen to reference ATCP 50 in their local ordinances to avoid having to revise when updates to NRCS 590 are made. The Committee discussed past updates to NRCS 590 and the effect that future updates might have on producers. If an ATCP 50 reference is recommended rather than waiting for another Committee review, would that afford operators enough time to come into compliance? Several members attested to their experience with the 2015 update and explained that there is a natural lag in implementation while SNAP+ is updated, along with conservation staff affording time to producers. The Committee agreed that ATCP 51.16 should reference the 2015 version of NRCS 590.

4. Should the worksheet 4 exemption for WPDES permit holders under 51.16(4) 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 the exemption affords operators with the presumption of compliance based on the review for their WPDES permit by the DNR. However, the exemption requires the WPDES permit be for an equal or greater number of animal units than the livestock siting application. There is not an explicit number of animal units included in the WPDES permit copy that is submitted to local livestock siting authorities.

Advisors identified that WPDES permit statistics, including permitted animal units, are available on the DNR's WPDES stats webpage. Local staff may also reach out to DNR staff for clarification on

submitted WPDES permit copies. There is also a WPDES permit factsheet produced as part of DNR's approval process. This factsheet contains information such as animal units and is provided ahead of public meetings. The Committee discussed the value of the WPDES factsheet to address questions related to animal units authorized by a permit, while keeping the exemption in place as intended. More transparency for WPDES permit animal units could alleviate consistency concerns with a local livestock siting permit. The Committee also considered the logistics of local approvals using a WPDES permit exemption for a number of animal units which may exceed the number allowed in a local ordinance's zoning district. It was discussed that this scenario may go beyond the scope of this Committee.

5. Should facility operators continue to be disqualified from being able to prepare their own nutrient management checklists and plans for approval of their permit?

The Committee affirmed their previous discussions that operators should be able to prepare their own plans and checklists if they are qualified. There is already guidance in ATCP 50.48(2) that establishes the qualifications.

6. Should the 590 checklist in worksheet 3 remain the only required submission to prove compliance with the standard, or should additional materials be required, such as the full plan?

The Committee discussed the potential impacts of requiring additional nutrient management materials be submitted to a permitting authority at the time of application, such as the full plan. Some local officials may not have the capacity to review the nutrient management plans in full. But some local officials may find those materials helpful when hosting public meetings. Currently in ATCP 51, it is an option for local officials to request that information if necessary. The Committee determined that leaving it as an option for local permitting authorities to request additional materials to substantiate questions from the nutrient management checklist (as currently authorized under s. ATCP 51.16(1)(b), Wis. Admin. Rule) would be most beneficial.

7. When determining permit approval related to land base access for spreading, would it help local governments if applications identified the acres owned versus rented? If so, what is the best way to accomplish this?

The Committee identified that the 2015 version of NRCS 590 already asks producers to show owned versus rented acres. Knowing owned and rented acres is useful for local staff, especially when other programs such as farmland preservation are involved. The Committee also discussed the possibility of landowner names for rented acres being part of the public record in an application process, as privacy may be a concern. However, the 2015 version of NRCS 590 does not require landowner names be listed to presume compliance. The Committee determined that updating to the 2015 version of NRCS 590 and using the checklist would be adequate.

The Committee offered the following recommendations:

The Committee, as a consensus, recommends updating 51.16 to require compliance with the 2015 version of the NRCS 590 technical standard for nutrient management.

Part of The Committee recommends that ATCP 51.16 reference another state administrative rule, such as ATCP 50, to keep livestock facility siting requirements for nutrient management consistent with other state rules.

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 51.16(4) for Worksheet 3 of the application.

The Committee, as a consensus, recommends that livestock operators be allowed to prepare their own nutrient management plans and answer their own checklists in Worksheet 3 of the application if they meet the criteria for qualification under ATCP 50.48(2).

Item #3 Preparing for the Next Meeting

Jackson advised the committee that the next meeting would focus on review of the Livestock Facility Siting Waste Storage and Runoff Management Standards ([ATCP 51.18 and 51.20, Wis. Admin Rule, ATCP 51, Appendix A, Worksheets 4 and 5](#)). The committee should expect a survey of their availability for the days of Feb 27th - 28th and March 6th – 17th during the first week of February. Two meetings will be scheduled to afford the committee the option to continue discussions on waste storage and runoff management in a second meeting. 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 11:46 am.