

# ACCP Increases Site Caps, Expands Eligibility to Help You Clean Up Ag-Chemical Issues

## SCS ENGINEERS

Environmental Consultants and Contractors

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It's hard to make time to stay plugged into the latest changes at the Wisconsin Department of Agriculture, Trade and Consumer Protection (WDATCP). But it's important to know what's happening now because the Agricultural Chemical Cleanup Program (ACCP) changes that passed the Wisconsin State legislature in September 2017 are now being implemented. SCS Engineers spoke with Lori Bowman, Director - Agrichemical Management Bureau (ACM), WDATCP and Jennifer Heaton-Amrhein, Policy Analyst, WDATCP to bring you an update on the recent ACCP changes and how they impact you as a WABA member.

### 1. SCS - What are the core changes that were recently made to the ACCP?

WDATCP - The major ACCP changes are:

- The ag-chem discharge site maximum increased from \$400,000 in eligible costs to \$650,000 in eligible costs, incurred after July 1, 2017.
- Eligibility is restored to all ag-chem discharge sites, as of September 21, 2017.
- ACCP surcharges were reduced and will be reviewed May 1st of each year for the following license and tonnage year.
- ACCP surcharges will be reviewed and set annually based on the ACCP fund balance.

### 2. SCS - What are some of the details regarding WDATCP's deliberations regarding the recent changes to the ACCP site cap extension to \$650,000 and other changes?

WDATCP - The ACM Bureau, in collaboration with industry, considered all aspects of the ACCP revenues and expenditures during its recent RevEx project. The site maximum has not been increased since the program began in 1994 while costs to conduct a cleanup increased because of inflation. The working group felt an inflationary increase to the site reimbursement maximum would assist facilities with their expenses and ensure progress would continue on site cleanups and protect the environment. In addition, industry recognized that newly constructed facilities also need ACCP eligibility as private insurance is not an economical option.

### 3. SCS - Why was the ACCP site cap extension approved now and not at some other time?

WDATCP - The increase in the ACCP site maximum was approved now because the ACM Bureau, in conjunction with industry stakeholders, undertook a comprehensive review of the ACCP as part of the RevEx Project. Revenue and expenditure projections showed that the ACCP fund would be able to support both a cap increase and a fee holiday. The workgroup included the inflationary increase to the reimbursement maximum as one of its recommenda-

tions, and it was adopted into state law by the Legislature and Governor on September 21, 2017.

### 4. SCS - What are some examples of ACCP projects that serve as success stories regarding how the ACCP has assisted agri-businesses and the environment, across the State of Wisconsin?

WDATCP - A good example is a former fertilizer plant site in south central Wisconsin that was in the ACCP because of extensive fertilizer contamination. After successful remediation of the fairly large site (>10 acres), it is being redeveloped as a mixed-use site to include a public library, apartments, and commercial space. SCS - Other examples include the numerous agricultural cooperatives and other ag-chemical distribution facilities all over Wisconsin that expand or upgrade their facilities by adding ag-chemical mix-load pads and remediate the soil beneath the new structure prior to construction.

### 5. SCS - What are some examples of challenges regarding how environmental requirements are followed across the State of Wisconsin?

WDATCP - Some ongoing challenges for agri-business that we are seeing include the need to do the following:

- Improve rinsate management. We continue to see rinsate pumped over containment walls and otherwise mishandled.

- Maintain and/or replace ag-storage and transportation equipment, which can easily fail and lead to spills.
- Evaluate the condition of on-farm storage by the agri-business. Some containers are clearly unsuitable yet continue to be filled, resulting in spills.
- Maintain storage and containment pads, including closed sites with continuing obligations.
- Implement environmental awareness and spill prevention into day to day practices. A number of spills occur each year due to human error that could be prevented.

**6. SCS - What are the most important points you want to raise regarding how agri-businesses are being supported and how many ACCP projects are currently open/actively being worked on?**

WDATCP - The ACM Bureau supports agri-business by providing compliance and technical assistance as the first step in a progressive enforcement strategy related to our regulations. We have 14 field staff located throughout the state-- and technical program experts, engineers and licensing specialists in our central office-- who are available to help the industry comply with licensing, labeling and environmental regulations. There are about 150 active ACCP cases currently open and being worked on, with another 30-50 spill cases that occur and are worked on annually.

**7. SCS - Why are there less active ACCP projects now than there were several years ago?**

WDATCP - There are fewer active ACCP projects now because many historic sites with extensive pesticide and fertilizer contamination have

been investigated, cleaned up, and closed. Newer sites meet more stringent containment and handling requirements in order to prevent environmental contamination. There will always be some ACCP projects as a result of acute spills, "drips and dribbles" that build up over time, real estate transactions that uncover unknown contamination, and conditionally closed sites that are reopened because known contamination becomes accessible for remediation. However, the number of sites and level of contamination will continue to be much lower than experienced in the early 2000s.

**8. SCS - How much enforcement of WDATCP environmental regulations is occurring now compared with in the past?**

WDATCP - The ACM Bureau continues to enforce environmental regulations similarly to how they were enforced 5 to 15 years ago. Our 14 field staff, supported by technical experts from DATCP's central office, use a progressive compliance approach to help the industry meet our regulations. Compliance and enforcement methods include outreach, compliance and technical assistance, inspections, verbal warnings, written warnings, and investigations and penalties, if appropriate and warranted.

**9. SCS - What are the reasons for any difference between WDATCP environmental regulation enforcement now compared within the past (now vs. 5 years ago and 15 years ago)?**

WDATCP - Most of the ACM Bureau's environmental regulations have been in place for many years. When regulations are revised or new

regulations are adopted, the Bureau typically phases them in and focuses on outreach, compliance assistance, and warnings, in order to increase industry's awareness, understanding and compliance. As regulations mature, the Bureau has increased expectations that industry should be aware of and in compliance with regulations. Overall, our Bureau has found that industry wants to meet established environmental regulations and has high compliance with them.

We appreciate WDATCP spending the time to update the WABA members. If you need any help investigating and cleaning up ag-chem spills on your property, or meeting other WDATCP and WDNR environmental compliance requirements like ag-chem mixing loading pads and SPCC Plans, please contact SCS Engineers.

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