

# **05hr\_CRule\_05-014\_AC-Ag\_pt01**



Details:

(FORM UPDATED: 07/12/2010)

## **WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS**

### **2005-06**

(session year)

### **Assembly**

(Assembly, Senate or Joint)

### **Committee on ... Agriculture (AC-Ag)**

#### **COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

#### **INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt**
- Clearinghouse Rules ... **CRule**
- Hearing Records ... bills and resolutions
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)
  - (**ajr** = Assembly Joint Resolution)
  - (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

# Vote Record

## Committee on Agriculture

Date: 12/21/05

Bill Number: C.R. 05-014

Moved by: Ott Seconded by: Ainsworth

Motion: Adoption of Request for Modifications

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Alvin Ott, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Lee Nerison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Ainsworth	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jerry Petrowski	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative J.A. Hines	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Scott Suder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Gabe Loeffelholz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Debra Towns	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Barbara Gronemus	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Amy Sue Vruwink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Robert Ziegelbauer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Steinbrink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Joseph Parisi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>13</u>	<u>1</u>	<u>2</u>	<u>    </u>

Motion Carried

Motion Failed

## Vote Record

### Committee on Agriculture

Date: 12/21/05

Bill Number: C.R. 05-014

Moved by: Ott Seconded by: Nerison

Motion: Add Provision to first bullet point of the motion - "i.e. the attached committee members' comments."

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Alvin Ott, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Lee Nerison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Ainsworth	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jerry Petrowski	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative J.A. Hines	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Scott Suder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Gabe Loeffelholz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Debra Towns	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Barbara Gronemus	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Amy Sue Vruwink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Robert Ziegelbauer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Steinbrink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Joseph Parisi	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>12</u>	<u>1</u>	<u>2</u>	<u>  </u>

Motion Carried

Motion Failed

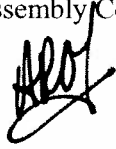




# Al Ott

State Representative • 3rd Assembly District

## Memorandum

To: Members of the Assembly Committee on Agriculture  
From: Rep. Al Ott, Chair   
Date: August 18, 2005  
Re: Livestock Facility Siting Rule – ATCP 51

CR 05-014

As you know, our committee will soon be charged with reviewing Clearinghouse Rule 05-014, which creates ATCP 51 – standards for livestock facility siting. I would like to take this opportunity to give you a brief overview as to how I plan to move forward on this rule.

First and foremost, I would respectfully request that you approach this process with an open mind. I encourage you to ask questions and have a willingness to listen and work through the issue.

It is my intent to bring the committee together for an informational hearing on Thursday, September 15<sup>th</sup>. The DATCP Board is scheduled to meet on this rule on Wednesday, September 14<sup>th</sup>. I have asked DATCP staff to brief the committee on the contents of the rule and walk through the application forms and process.

In addition, I have asked Secretary Nilsestuen to visit with each member of the committee individually – as a follow-up to the briefing – in order to discuss concerns or address questions you may have.

Once the rule has been referred to the committee, we will be holding a public hearing and accepting formal testimony on the rule. A separate executive session will be held if necessary.

This is one of the most critical subjects that will come before our committee this session. Due to the complexity of the issue, I want members to be as fully informed about this rule as possible – hence my desire for a committee briefing, individual meetings and public hearing.

It is important for members to be engaged in this process. Please familiarize yourself with the draft rule prior to the briefing. The rule and supplemental information can be found on the Department's website at:

[www.datcp.state.wi.us/arm/agriculture/land-water/livestock\\_siting/siting.jsp](http://www.datcp.state.wi.us/arm/agriculture/land-water/livestock_siting/siting.jsp).

Please note, however, additional changes are possible prior to the rule going before the DATCP Board.

Do not hesitate to contact me if you have any questions or would like to discuss this matter further. Open and thoughtful dialogue will be key to the success of this process.

Thank you for your time and consideration.



**REPRESENTATIVE AL OTT**  
State Representative  
3<sup>rd</sup> Assembly District  
P.O. Box 8953 – Madison, WI 53708

CR 05-014?

**FOR IMMEDIATE RELEASE**  
September 20, 2005

**Contact: Representative Ott**  
(608) 266-5831

**\*\*Media Advisory\*\***

**Assembly Agriculture Committee to Hold Informational Session on  
Livestock Facility Siting Rule**

**Madison** – The Assembly Committee on Agriculture will meet on Thursday, September 29, 2005 for an informational session regarding the proposed Livestock Facility Siting rule package (ATCP 51).

Department of Agriculture, Trade and Consumer Protection staff has been invited to brief the committee on the contents of ATCP 51 and walk through the application process set forth by the rule.

The informational session is open to the public. Audio of the proceedings will also be broadcast via the Legislature's home page. The committee will be taking invited testimony from Department representatives only. Public comment will be taken at a later date.

**Assembly Committee on Agriculture Informational Session on ATCP 51:**

Thursday, September 29<sup>th</sup>  
9:30 a.m.

Room 411 South, State Capitol  
*Invited Testimony Only*

Audio available at: <http://www.legis.state.wi.us/>

###





CRule 05-014 ?

# Wisconsin Ag Connection



## BACK TO HOME

- About Us
- Website Design
- Advertising Info
- WI Ag Agencies
- E-Mail Us

## Wisconsin Ag News Headlines Ag Committee to Take Up Livestock Siting Bill

Wisconsin Ag Connection - 09/21/2005

The latest version of rules relating to livestock siting in Wisconsin will begin going through the Legislative process this month. ATCP 51, which was approved last week by the state's agriculture board, will be discussed by the Assembly Committee on Agriculture on September 29 during an informational session at the State Capitol building. The meeting is open to the public, but only DATCP representatives will be allowed to give testimony.

Under the livestock facility siting law, DATCP must spell out information that a livestock operator is required to include in an application for local approval in order to show that the new or expanded livestock facility complies with DATCP standards. The law states that this process must be done once every four years.

Wisconsin Ag Secretary Rod Nilsestuen says the legislation 'will create certainty for expanding dairy and livestock operations and reduce community conflict over expansions.'

However, the current bill as it stands has mixed feelings among producers, legislators and farm groups--all of which differ on various provisions of the measure.

The law is likely to be in place by the end of the year.

[E-MAIL THIS PAGE TO A FRIEND ↗](#)

usagne  
Agricultural Internet Search Engine

 [Go](#)

*Tim Nolan Arena*  
MARION, WISCONSIN

INTERESTED...  
in advertising here

AMS  
MANUFACTURERS REPRESENTATIVE!

Sign-up for our FREE Weekly E-NEWSLETTER

E-mail News Tips!





State of Wisconsin  
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection  
Rod Nilsestuen, Secretary

Date: September 27, 2005  
To: Assembly Agriculture Committee members  
From: Rod Nilsestuen  
Re: Some Perspectives on Livestock Facility Siting

CRule  
05-014 ?

Doing all that we can to increase Wisconsin's dairy and livestock competitiveness has been our number one priority since I started at DATCP two and one half years ago. Since then much has been accomplished: a \$50,000 investment credit modernization incentive for both dairy and livestock; the Dairy Business Innovation Center; expanded use valuation; the grazing initiative; construction of the Wisconsin Veterinary Diagnostic Lab; the nation's first livestock premise registration and much more.

Two years ago, as I spoke with groups across Wisconsin, the issue widely identified as the number one impediment to our dairy and livestock growth was the conflict and turmoil over siting of livestock facilities. Despite several failed efforts in the past and much advice that this controversial and complex issue could not be solved, the DATCP Board, Legislature and I were determined to address siting in a fair, open and balanced way involving all interested parties.

After a superb and broad-based Advisory (Rohde) Committee; legislative hearings and passage of the siting law with broad, bipartisan support; months of intense and detailed work by a Technical Committee; DATCP Board discussion and review; twelve public hearings attended by over 800 participants; and literally the investment of thousands of hours of staff effort -- we are now, after 28 months, ready with the final draft rule.

Throughout this entire period, we have been engaged in extensive and often intensive discussions with the many agricultural groups, local government, conservation and environmental organizations and other interested stakeholders. From the onset, we have been committed to listening closely and utilizing the best ideas possible. As a direct result, we have made many, many significant modifications in the proposed rule.

In my thirty plus years of work in public decision-making, I have never been involved in any process that utilized this magnitude of citizen and stakeholder input. On most days, I believe it has been worth all the effort, because we now have an approach which meets the goals we set out to accomplish:

- Reduce the conflict which has divided local communities
- Provide predictability for dairy and livestock producers to modernize and grow
- Maintain Wisconsin's hard-won environmental standards

*Agriculture generates \$51.5 billion for Wisconsin*



## Livestock Facility Siting Rule (ATCP 51)

### Key Revisions to Final Draft Livestock Facility Siting Rule

#### Revises research-based odor standard, mainly to address farmer concerns

- Retains complete exemption for expanding facilities under 1,000 animal units (AU) and new facilities under 500 AU.
- Adds complete exemption for facilities more than 2,500 feet from nearest affected neighbors.
- Allows more odor (uses less restrictive “odor curves”).
- Provides a lower, more accurate odor generation number for large manure lagoons.
- Reduces odor estimates for livestock housing facilities.
- Clearly defines “affected neighbors” for purposes of odor score calculations.
- Calculates separation distance more fairly by using weighted average.
- Gives credit if neighboring development is low-density (same credit applies to future expansions, even if there has been more encroaching development).
- Gives credit of up to 30% for favorable wind direction.
- Expands and clarifies management practices that operator can use to improve odor score. Allows for innovative practices not yet identified.
- Simplifies “cluster” option (e.g. helps farmers with separate milking and heifer facilities).
- Expands local discretion to grant permit (only works in favor of farmer).
- Clarifies that odor scores may not be used as a nuisance standard.
- Refines odor standards based on testing of real farm scenarios provided by farm groups.
- Establishes positive scoring system.
- Acknowledges that odor management may also help control air pollution emissions.
- Gives credit for required employee training and incident response plans (eliminates “good neighbor” practices that do not actually reduce odor).
- Allows more than 90% of existing facilities to pass, even if they install no new odor management practices. Others can pass by adding odor management practices (farmer chooses practices).
- Simplifies odor worksheet (and provides convenient automated spreadsheet option). Farmer can check the numbers (and refine plans if necessary) before applying.
- Guarantees local approval for those who meet standard.

#### Changes setback requirements, mainly to address farmer concerns

- Eliminates state setbacks in favor of more lenient local setbacks (except for new manure storage facilities). Caps local setbacks (100-200 ft. *maximum*, depending on circumstances).
- Adds 350 ft. setback for new manure storage.
- “Grandfathers” existing structures, *and allows them to expand* (but no closer to property line).

#### Eliminates some standards, to address farmer concerns

- Eliminates odor management standard for manure spreading.
- Eliminates plan for handling dead animals.



## Livestock Facility Siting Rule (ATCP 51)

### **Common Misconceptions About the Livestock Facility Siting Rule**

***The Livestock Facility Siting Rule will eliminate the growth of livestock operations in Wisconsin.***

The opposite is true. The siting rule will promote the growth of livestock operations throughout the state by creating a consistent and predictable process for farmers that guarantees a permit if an application is properly completed. Under the current regulatory system, livestock operations face potentially expensive, and in many cases, arbitrary local permitting processes with no guarantees.

***The odor standard will make it especially difficult to grow mid-size dairy operations.***

Most mid-size dairy operations will not be required to meet the odor standards in the proposed rule. The rule recognizes the special challenges faced by expanding mid-size dairies and for this reason, the odor standard only applies to expanding facilities over 1000 AU. In addition, the odor standard goes beyond the use of often rigid local and state setback requirements to control odor. Livestock operations that must comply with the odor standard have the flexibility to use a combination of distance and implementation of odor control practices, many of which are low-cost, to help dissipate the odor. The rule also allows farmers to apply to the department for approval of innovative odor control practices.

***The Department of Agriculture, Trade and Consumer Protection has not been responsive to the concerns raised by farming interests.***

The Department of Agriculture Trade and Consumer Protection has taken all comments on the rule very seriously. Each of over 500 comments given at 12 public hearings across the state were read and considered. The department revised the proposed rule extensively based on these comments. In fact, most of the revisions made were directly in response to comments from farming interests. Compromise has been an important component in development of this rule and it is important to remember that total consensus on every element of this rule by all interested parties is not realistic.

***Odor from livestock facilities cannot be measured.***

It is possible to measure odor from livestock facilities. The techniques in the rule used to measure odor—and ways to control or reduce odor-- have been extensively researched by the University of Minnesota and others. Additionally, all of the odor management practices included in the odor standard have been proven to reduce or control odor through peer-reviewed science. The department has made a commitment to continue research on odor and air emissions and recently was awarded a \$1.3 million grant for this purpose.

***There was not an open process for citizen interaction during the development of the Livestock Facility Siting Rule.***

This is simply untrue. The development of the Livestock Facility Siting Rule was an extensive and inclusive process founded on compromise. Through every step in this 28-month process, the Department of Agriculture, Trade and Consumer Protection solicited and considered input from affected stakeholders, particularly agricultural, local government, and environmental interests. In fact, citizen input from the public hearings was particularly important in developing the final rule draft and led to numerous changes that favor farming interests.

***The setback requirements are unfair to livestock operators.***

The setback requirements in the rule provide options to livestock operators and local government. It does not set state-mandated setback requirements. Instead, the rule establishes a state maximum which local governments may not exceed. In many cases, these local setbacks are lower than the state maximums. The rule also allows expansion of existing structures if this expansion does not encroach on setbacks.



# Livestock Facility Siting Rule (ATCP 51)

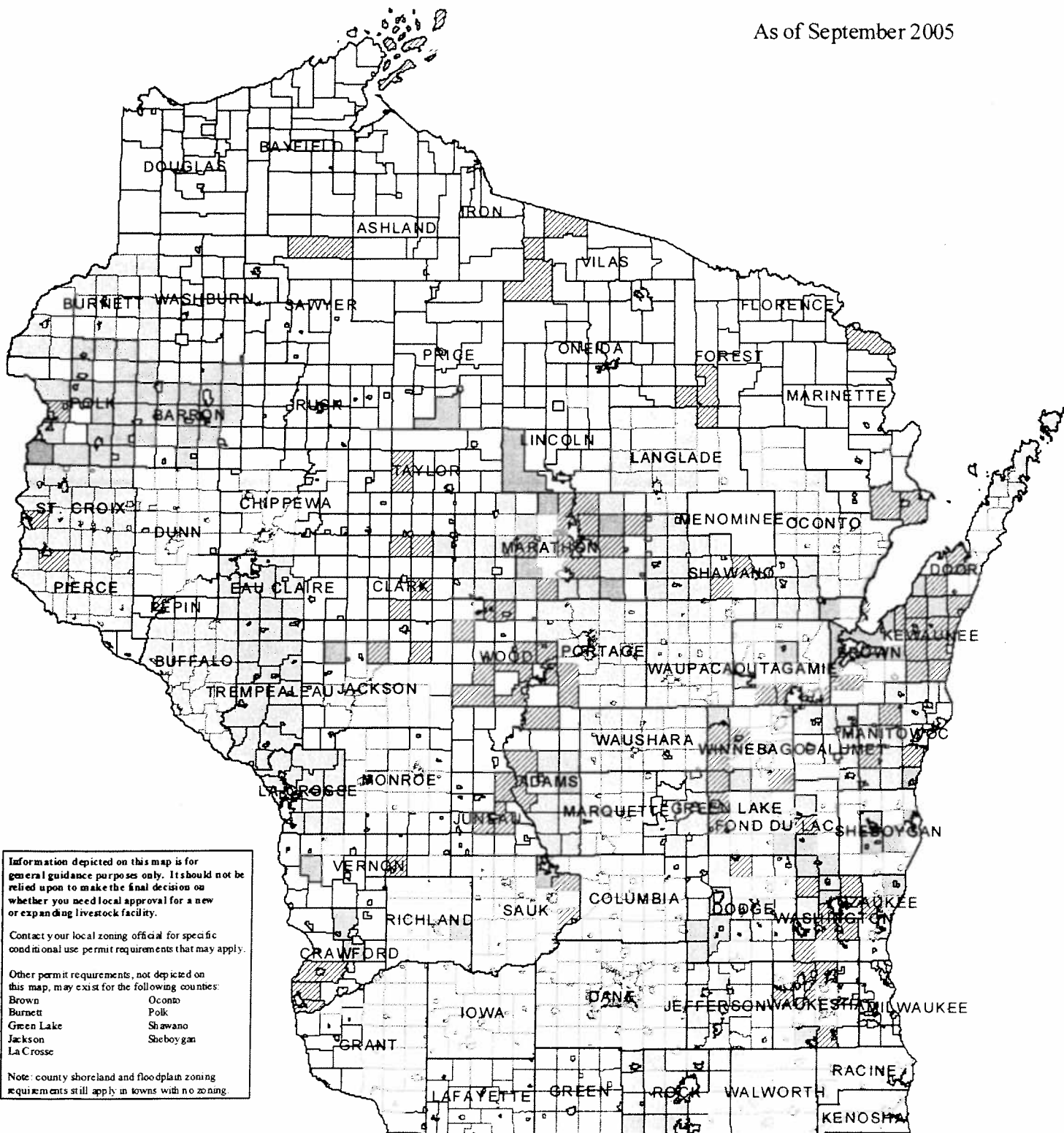
## Prior to ATCP 51 – Real examples of expansion costs

Farm	Costs	Included in Costs	Other Issues
Farm A	\$2000	Expert testimony fees	Does not include costs the partners incurred from taking off several days from farming duties to prepare for hearings. <b>Permit granted.</b>
Farm B	\$10,000	Not reported	<b>Permit granted.</b> Many challenges in process, but the worst were emotional.
Farm C	\$17,000	Not reported	Residents wanted an ordinance restricting the size of operations. <b>Permit granted.</b>
Farm D	\$20,000	Portion of town's legal fees; expert testimony fees	Many public hearings. Community was allowed to add a large number of permit conditions. <b>Permit granted.</b> Town can add new conditions to the permit every two years.
Farm E	\$65,000	Legal fees and expert testimony	<b>Permit denied</b> after numerous public hearings. Had to switch counties to one that did not require a permit.
Farm F	\$85,000	Expenses incurred during permitting process, including engineering assistance.	<b>Permit granted.</b> Emotional strain was worse than financial aspect.
Farm G	\$106,000	Legal fees and expert testimony (costs incomplete, case still pending)	Received permit that was found to be void. Has not received another permit. In addition, may be fined \$50-\$500 per day for noncompliance. <b>Permit denied.</b> Lawsuit still pending.
Farm H	\$125,000	Legal fees, expert testimony, and manure digester	<b>Permit denied</b> on non-scientific concerns, despite adequate land base, nutrient management plan, digester, and government engineering assistance.
Farm I	\$200,000	Legal fees and expert testimony	Two lawsuits not completed. Producer said he will move out of state before he ever goes through this again.
Farm J	\$350,000	Construction of engineered practices	Unreasonable engineering conditions imposed with no scientific rationale. Also sustains \$19,000 in additional costs annually due to permit requirements. <b>Permit granted.</b>
Farm K	\$420,000	Legal fees and purchase of two homes	Successfully challenged county ordinance that restricted operation size. <b>Permit granted.</b>

Note: Eleven operators provided information related to their costs to receive a local permit to expand their livestock facility. These costs ranged from \$2000 to over \$400,000, with an average cost of \$120,000. Two of these example expansions have spent over \$100,000 each but have not yet received a permit. Table 1 provides a sample of these operations, their costs, and other issues they faced during the process.

# Livestock Facility Siting Conditional Use Permit (CUP) Requirements and Thresholds: Prior to the Adoption of ATCP 51

As of September 2005



Information depicted on this map is for general guidance purposes only. It should not be relied upon to make the final decision on whether you need local approval for a new or expanding livestock facility.

Contact your local zoning official for specific conditional use permit requirements that may apply.

Other permit requirements, not depicted on this map, may exist for the following counties:

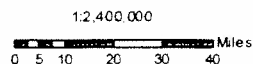
- Brown Oconto
- Burnett Polk
- Green Lake Shawano
- Jackson Sheboygan
- La Crosse

Note: county shoreland and floodplain zoning requirements still apply in towns with no zoning.

Legend	
County Zoning CUP Thresholds	Town Zoning: No CUP Requirements
<ul style="list-style-type: none"> <li>□ CUP Required for &gt; 500 AU</li> <li>□ CUP Required for &lt; 500 AU</li> </ul>	<ul style="list-style-type: none"> <li>□ County Zoning: No CUP Requirements</li> <li>□ County Zoning: Unknown CUP Requirements</li> </ul>
Town Zoning CUP Thresholds	Town Zoning: Unknown CUP Requirements
<ul style="list-style-type: none"> <li>□ CUP Required for &gt; 500 AU</li> <li>□ CUP Required for &lt; 500 AU</li> </ul>	<ul style="list-style-type: none"> <li>□ No Zoning</li> <li>□ City/Village</li> </ul>



Data Sources: DATCP Town Survey, DATCP EA2 Ordinance Survey, County Zoning Ordinances, and 1998 UW-Extension report entitled "An Inventory of Land Use Plans in Wisconsin".



Map Created 6/30/2005 (Last updated 9/16/2005)



## Livestock Facility Siting Scenarios (ATCP 51)

**These scenarios apply if your local government has a livestock siting ordinance. IF THERE IS NO LOCAL ORDINANCE, NO LOCAL PERMIT IS REQUIRED.**

New or Expanded	Animal Units (AU)	DNR Permit (1000 AU or more)?	Local ordinance permit threshold <sup>1</sup>	Expanded more than 20% <sup>2</sup>	Local permit required?	Must Complete Worksheets?				
						1 Animal Units	2 Odor	3 Waste & Nutrient Mgmt	4 Waste Storage	5 Runoff
1. Expand	1500 to 3000	Yes	500 AU	Yes	YES	Yes	Yes	No <sup>3</sup>	No <sup>3</sup>	No <sup>3</sup>
2. Expand	1300 to 1500	Yes	500 AU	No	NO <sup>2</sup>	No	No	No	No	No
3. Expand	300 to 450	No	500 AU	Yes	NO	No	No	No	No	No
4. Expand	300 to 450	No	400 AU <sup>1</sup>	Yes	YES	Yes	No	Yes <sup>4</sup>	Yes	Yes
5. Expand	480 to 550	No	500 AU	No	NO	No	No	No	No	No
6. Expand	480 to 600	No	500 AU	Yes	YES	Yes	No	Yes	Yes	Yes
7. Expand	600 to 700	No	500 AU	No	NO <sup>2</sup>	No	No	No	No	No
8. Expand	600 to 900	No	500 AU	Yes	YES	Yes	No	Yes	Yes	Yes
9. New	450	No	500 AU	NA	NO	No	No	No	No	No
10. New	550	No	500 AU	NA	YES	Yes	Yes	Yes	Yes	Yes
11. New	1500	Yes	500 AU	NA	YES	Yes	Yes	No <sup>3</sup>	No <sup>3</sup>	No <sup>3</sup>

<sup>1</sup> Local siting ordinance may not regulate below 500 "animal units" unless adopted prior to July 19, 2003.

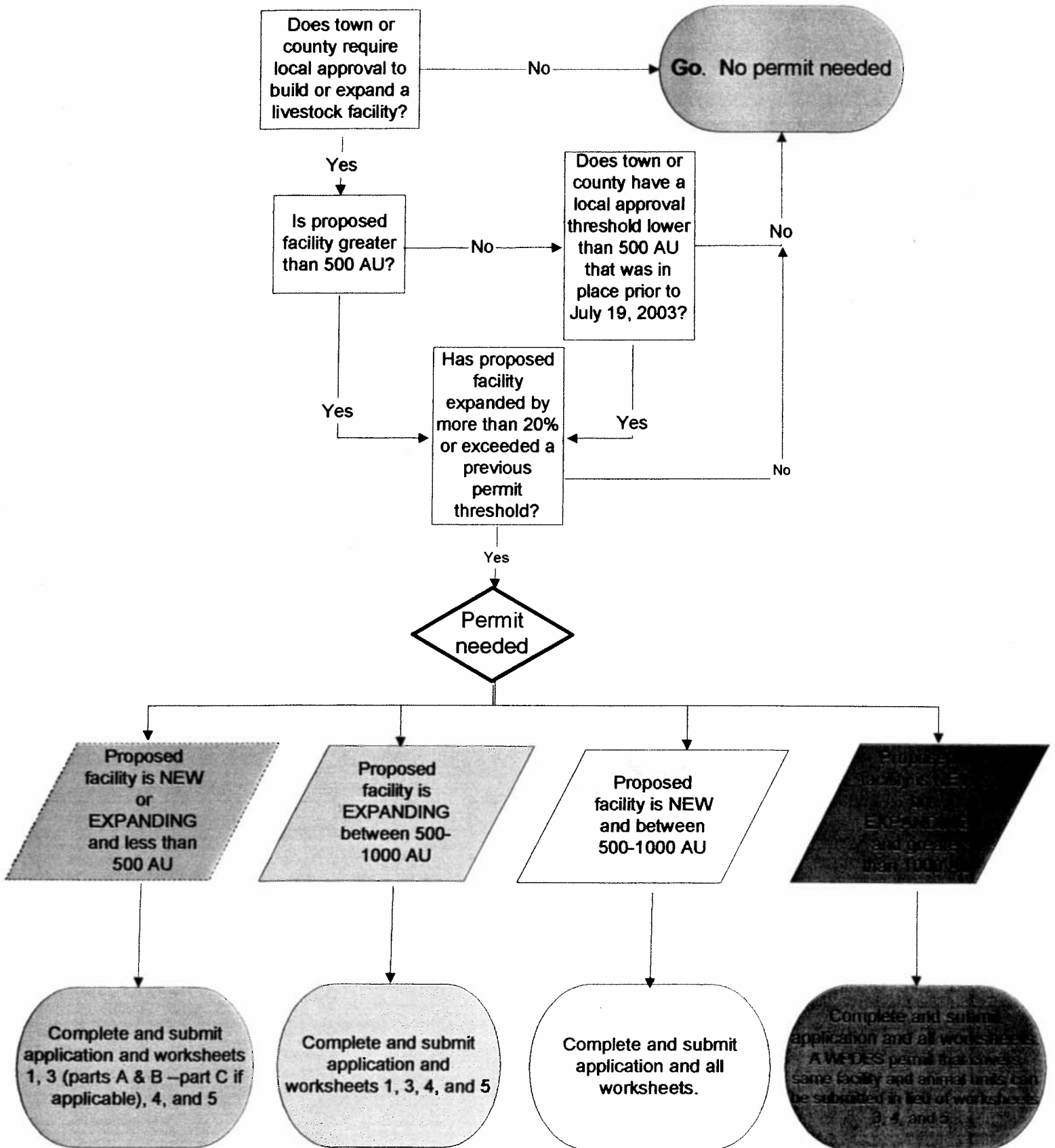
<sup>2</sup> A pre-existing facility may expand by 20% without a local permit, unless existing permit sets size limit.

<sup>3</sup> May submit DNR permit in lieu of worksheet.

<sup>4</sup> Exempt from part C, if acreage minimally adequate to handle manure (see worksheet).



# Livestock Facility Siting Process





2005?

CRule 05-014?

Sept. 29<sup>th</sup> Amigo Meeting on ATCP 51

Attendance -

Jeff Lyon	Game Bureau
Paul Zimmerman	
Rep. Ward	
Kelley Wall	DATCP
Joe Handrick	
Rep. Stuchota	
Joan Sanstael	Agri-View
Dave Howell	Reg. Council
Jerry Dean	Cattlemen
Jordan Hamer	Cattlemen + Pork
Jim Massey	Cowboy Today
Casey	
Tom Lyon	DATCP
Stadelman	Cowboys Assoc.
Matt Stohr	Cowboys Assoc.
Brad Wequid	Dairy Products Assoc.



2005?

CR 05-014

9/29/05 - Ag Committee Briefing on ATCP 51

Ward - felt need to create roadmap for ag to expand in WI.

- Prompted by producer in his area who was denied permit despite his excellent track record.

Started w/ pre-emption → to start discussions.

Rhode Committee → AB 868 → Act 235

↓  
Authentic Standards

of meet standards → can't deny permit.

Now in rule making process to develop standards

Issue of Odor

- Causes a lot of people concern.
- If we (ag) don't take on odor, someone else will do it for us...
- We will need to make some changes to this product (rule). Willing to do what is necessary to make this a good rule.
- Use today to listen, learn & ask questions.

Nikestuen - Milk volume is increasing each month, where before it had remained flat.  
This is critical

When started as Sec., the #1 issue he heard about was the conflict that exists between growing ag + other interests.

This has been an open + balanced process.

Public hearings resulted in over 4 dozen changes

If producers meet standards cannot be denied permit. Also provides guidelines for local units of govt.

There will not be 100% consensus.

"Breaches" are appropriate by legislature.

Need to work w/ DNR + legis to avoid complications on NR 213. All revisions.

Rule accounts for new technology - approval process for new practices.

Dept. will do extensive education + outreach.

\* Key test → Does the rule provide practical + predictable guidelines for producers + local units of government.

We've come a long way...

This rule is just one piece of the whole to ensure the success of the industry.

Bobby - Are we hurting farmers in terms of tax breaks w/ this rule...?

Hines - Nobody is talking about the benefits the Standard will have on the health & welfare of the animals. Feels this is a positive for the animals.

Youns - Is it possible for an excellent producer to be denied the ability to expand under this rule?

DATEP Staff Presentation  
(See Handout)

Kathy - Background

Rule is a general statewide framework for siting/expanding livestock facilities.

The existing system is broken.

At the public hearing, order standard received the most comments by far.

Delinski - Estimate 50-70 farms per year impacted by the rule.

\* Could be higher if a fabulous rule...

With the exception of the Odor Standard, most of the rule is current law or standard.

Complete Application = Compliance = Approval

Setbacks - Defers to locals on setbacks requirements, but can't exceed state max.  
Except for manure storage 350 ft. min.  
BUT - Existing facilities are grandfathered in.

\* Feels rule will prevent exclusionary zoning around municipalities.

Ainsworth - Custom Manure Handling - Who's responsible for training?

Jullinski - Fac. Owner is only resp. for training their own employees.

Yavors - Grandfathering  
Will existing structures be subject to resp. when expansions take place?

If not modified as part of expansion not under requirements for setbacks?

Facility = Whole of the operation (Several structures)  
Rule applies to whole facility

vs.

Structures - These are what are grandfathered.



Depending on the standard, some structures will be exempt.

Hines - Include in employee training handling for pesticides + antibiotics  
(outside purview of rule/statute)

Sudee - Wants more specifics on training standard. How will this work?  
This could get out of control + costly.

Dulinski - There are no specifics. Dept. just sets baseline. Would be willing to do model plans

Watson - If this rule works the way it should, farmers should never have to physically read this + other applicable rules.

Dulinski - Predicted Odor =  
$$\frac{\text{Estimated Odor Generated} - \text{Odor Control}}{\text{Predicted Odor Score}}$$
  
Must have a score of 350 or less.  
\* Most current operations are at this level. Those who are higher generally haven't done anything to mitigate odor.

Use Sq. footage to predict odor - there is a correlation between sq. footage + A.C.

Suelee - Objects to any odor standard being in the rule - not in enabling legislation.

Jelinski - O industry has asked DATCP to do this - link odor + air emissions via this rule.

Suelee - O don't care . . .

Ainsworth - Odor not measurable → no unit of measurement. Have odor standards been applied to other industries?

Yawns - How did the Dept. come up w/ 80 as a # for local discretionary paints?

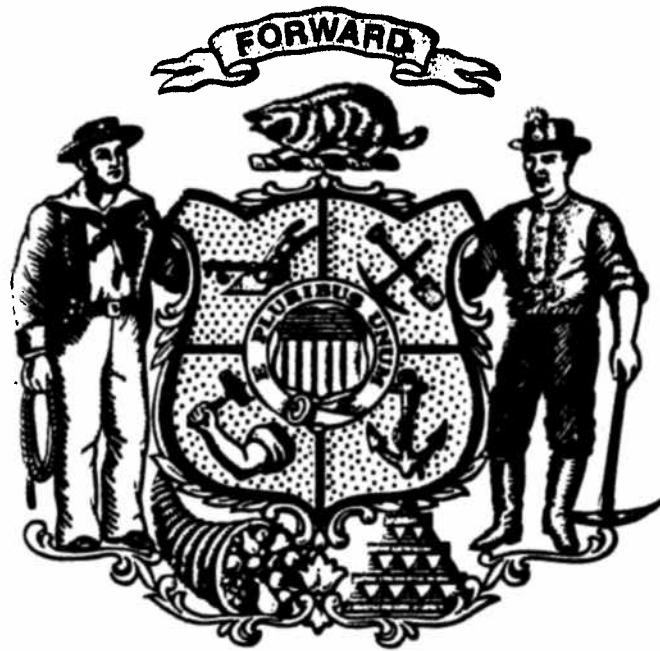
- Because science isn't perfect. Want to allow some flexibility for good operators.

Nutrient Mgt. Worksheet - Does local govt. have discretion to review 590 plan → No locals can ask for additional info to substantiate Nutrient Mgt. checklist.

Can they deny based on the active info provided by sampling it's not adequate?

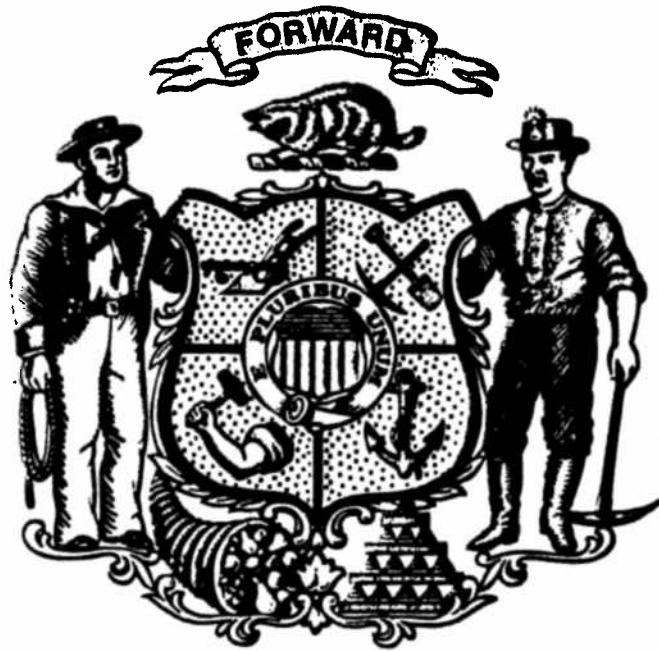
Waste Storage Worksheets - Most counties require this already.

\* CD Recording of Proceedings Onfile





Disc Put In The  
"Un-Scannable" box.



2005?

CRule  
05-014?



---

---

---

---

---

---

---

---



---

---

---

---

---

---

---

---



---

---

---

---

---

---

---

---

### Timeline for Law- and Rule- Making

Steps taken in 2005

- Held public hearings
- Conducted field trials for odor standard
- Revised rule draft
- Approved unanimously by ATCP Board



---

---

---

---

---



---

---

---

### The law requires

- IF locals choose to regulate
  - New threshold
  - State standards
  - Timely approval
- Local Governments **MUST APPROVE** facilities that meet standards



---

---

---

---

---


---

---

---

### Rule respond to comments

- Revised odor standard
- Reduced number of siting standards
- Eased setback requirements
- Simplified local administration
- Modified nutrient management standard
- Added facility management plans



---

---

---

---

---

---

---

---



How many farms will need permits each year?

# of all livestock operations in Wisconsin (~45,000)

# of livestock new and expanding operations (~200)

# of livestock operations that will require a permit (~50-70 per year)

---

---

---

---

---

---

---

---

---

---

### Worksheets and siting standards

Standard	Is this new?
Worksheet 1: Animal Units	No
Worksheet 2: Odor Management	Yes
Worksheet 3: Waste and Nutrient Management	No
Worksheet 4: Waste Storage	No
Worksheet 5: Runoff Management	No
-- Animal Lot	No
-- Feed Storage	Yes (if not CAFO)

---

---

---

---

---

---

---

---

---

---

### Facilities that need a permit

ONLY farms in areas that require permits

Of those, *only*:

- Cross permit threshold (usually 500 AU) and increase by 20%
- Already over 500 AU, and increase by 20%.

---

---

---

---

---

---

---

---


---

---



### Worksheet 1: Animal Units

Type of Livestock	Animal Unit Factor	# Proposed Animals	Total
Milking and dry cows	1.4	400	560
Heifers (800 to 1200 lbs.)	1.1	200	220
Heifers (400 to 800 lbs.)	0.6	140	84
Calves	0.2	60	12
<b>Total Animal Units = 876</b>			




---

---

---

---

---

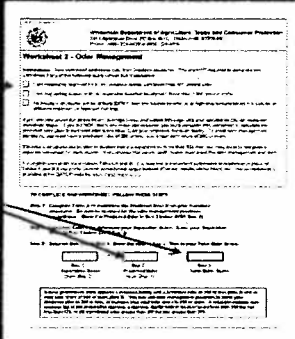
---

---

---

### Worksheet 2: Odor Management

- Check exemption box, if applicable
- Complete scores




---

---

---

---

---



---

---

---

### Which facilities are EXEMPT from the odor standard?

- New facilities under 500 AU
- Expansions under 1000 AU
- All facilities further than 2500 feet from neighbors


---

---

---

---


---

---

---


---

### Predicted Odor



- Estimate odor generated
- Adjust to reflect odor control practices

Passing Score  
350 or less



---

---

---

---

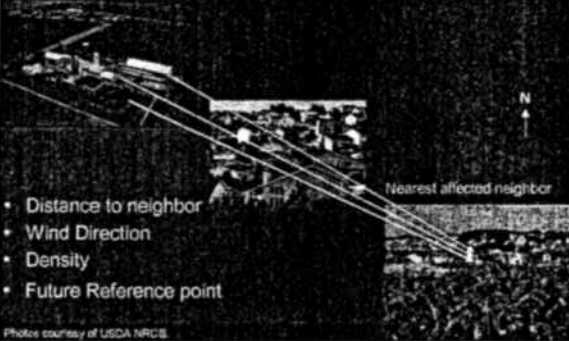
---

---

---

---

### Calculating Separation Score



- Distance to neighbor
- Wind Direction
- Density
- Future Reference point

Nearest affected neighbor

Photos courtesy of USDA NRCS

---

---

---

---

---

---


---

---

### Total Odor Score

Separation score *minus* predicted odor

Passing Score  
500 or greater



---

---

---

---

---

---

---

---

### Nutrient Management Checklist

- Applicants over 500 AU must complete – Unless inadequate land base
- Must answer yes or NA to these questions
- Signature of Nutrient Management Planner and applicant

The screenshot shows a form titled "Part C - Nutrient Management Checklist" with various sections and checkboxes. A large diagonal line is drawn across the entire form, indicating it is not to be used.

---

---

---

---

---

---

---

---

---

---

### Worksheet 4: Waste Storage

- Meet design and construction standards
- Certify capacity
- Signed by licensed engineer or practitioner

The screenshot shows a form titled "Worksheet 4: Waste Storage" with several sections, including "Design Standards" and "Capacity Certification".

---

---

---

---

---

---

---

---

---

---

### Worksheet 5: Runoff Management

- Animal Lots
- Feed Storage
- Nonpoint Pollution Standards

The worksheet includes three photographs showing runoff management structures: a concrete curb, a vegetated buffer strip, and a stone structure. A USDA NRCS logo is visible in the bottom right corner.

---

---

---

---

---

---

---



---

---

---

### Training

- Needs assessment (complete)
- General presentations
- Workshops



---

---

---

---

---



---

---

---

### Continuing odor and air emission research

- \$1.3 million grant
- 3 year project



---

---

---

---

---

---

---

---

### Livestock Siting Review Board

- September 2005 – Seek nominations
- October 2005 – Select members
- November 2005 – Senate confirms
- By January 2006 – Board meets



---

---

---

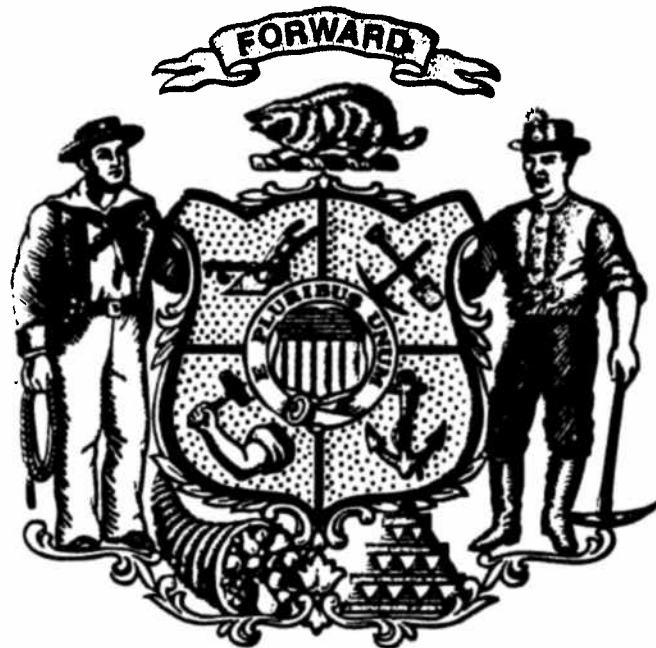
---

---

---

---

---



Secretary Rod Nilsestuen  
Assembly Agriculture Committee Briefing  
September 29, 2005

C-Rule  
05-014?

Wisconsin Agriculture: Green and Growing

When Governor Doyle took office in January, 2003, this administration made a very serious commitment to the agriculture industry. We committed to helping the \$51 billion industry to be green and growing. With strong bipartisan support from the Agriculture Committees and the entire legislature, and the ag industry, we passed legislation with unwavering focus.

Let's review the "growing" side of the equation. Since January, 2003, the state of Wisconsin has moved to make the following investments in the agriculture industry:

Wisconsin investment in agriculture industry in past two years:

- \$300,000 in federal funds for organics
- \$400,000 by the state for aquaculture
- \$540,000 – ADD Grants
- \$600,000 – Conservation Innovation Grant for air emissions – Livestock
- \$1 million in new state funds for bio-based value-added grants
- \$1.4 million in new state funds for nutrient management cost-sharing
- \$1.8 million in federal funds for grazing
- \$4 million in federal funds for the Value-Added Dairy Initiative
- \$4 million in federal funds for premises registration
- \$9.7 million in Dairy 2020 grants
- \$6 million USDA energy grants for digesters and biogas development
- \$6 million in state funds to grow the ethanol industry
- \$10 million in state funds for the dairy and livestock investment tax credits
- \$23 million for income tax credits by saving the Farmland Preservation Program
- \$25 million in state funds for construction of the Veterinary Diagnostic Lab
- \$34.5 million in WASI, UW Pioneer and Discovery Farms

Add it up:

Over \$127 million dollars in public investment to grow the industry in the past two years

A final, critical piece of the "grow agriculture" equation is our use value taxation. In the past two years, changes to the definition have saved farmers approximately \$600 million in property taxes. It moved Wisconsin from one of the highest to one of the lowest in the Midwest.

### Other measures:

Beyond the investment of taxpayer dollars and reduction in property taxes we focused on other critical issues that were barriers to growth:

- Health Care Cooperatives
- Agriculture Producer Security – freeing up millions
- Governor’s Consortium on the Bio Industry to make manure a profit center in the future

### Value Added Dairy Initiative (VADI)

- \$2.4 million in federal funds –currently in second year of funding
- Matched by in-kind contributions from Wisconsin dairy sector
- Partnering with dozens of existing agencies & organizations

### First Year Results of VADI

- Provided technical assistance to 227 dairy farmers
- Assisted 27 processors in bringing new value-added products to the market
- Assisted 9 new Wisconsin processing plants to open and assisted 3 previously closed plants to re-open and develop value-added products
- Administered \$657,894 in grants to 79 producers, processors and local dairy groups

### Year 2 Approach

- Another \$1.2 million in grants available
- Focusing on helping dairy farmers modernize operations to profitably increase milk production
- Added new “Commodity Innovation Grant” to help larger processors implement major projects to add value or cut costs in their businesses. Encouraging projects that involve collaboration between processors and dairy farmers

### Working with Partners

- Through Commerce’s Dairy 2020 program, more than 900 Wisconsin dairy producers have pumped \$282 million into modernizing or expanding their operations since 1996
- Producers with herds of more than 200 cows have added 217,975 cows since 1997 – marking a \$1.1 billion reinvestment and adding 1.2 billion pounds of milk to the supply chain

## Starting To See Results

- In 2005, Wisconsin milk production has increased:
  - 4.9% in July
  - 5.2% in June
  - 3.8% in May
  - 2.7% in April
  - .04% in January – March

It's the combination of all the elements of this comprehensive dairy competitiveness strategy – that is producing results and momentum. Wisconsin is on the move: It's why Hoard's Dairyman West said, "Wisconsin is creating the best dairy business climate in the US"/"Wisconsin has recommitted to dairy"

## Livestock

- No state in the US surpasses Wisconsin for the number, diversity or quality of its sausages, bratwurst, specialty and processed meats.
- Wisconsin's mix of major national brands and hundreds of top shelf local meat plants is unmatched anywhere
- (NFL Team--called "Packers" it's Wisconsin, only state where it's a felony to attack Italian sausage)
- Number 3 state in total sales--#1 if you don't count hot dogs!

But, in recent years:

1. We've lost much of our hog industry, including packing plants
2. We're shipping the bulk of our 600,000 dairy bull calves out of state to be fed before they come back to Green Bay, (missing major value-added growth) and much of our pasture land is under-utilized and we have few feedlots

In an effort to address this we have:

1. Created Grow Wisconsin Livestock Task Force to ID strategies to more effectively address these challenges
2. Advanced the \$50,000 investment credit incentive for livestock modernization
3. Established Grow Wisconsin Livestock Panel – to create an organized focal point for Wisconsin's entire livestock industry to advocate the actions needed for a healthy, broad-based livestock industry and ensure coordination to make this happen.



## Siting Legislation and Rule

It's time to reflect on why we started down the path of legislation and rule-making. It is time to reflect on HOW we started the process and the objectives of the many players involved. It is time to remember the leadership of the Livestock Siting Task Force, this Agriculture Committee, and the Legislature that helped to get us here. It is time to reflect on the enormous amount of time, energy and resources that have given us opportunity for the best solution in the nation to a thorny problem.

Two and one half years ago, as I criss-crossed Wisconsin for the first time as the Secretary of Agriculture, the issue identified as the number one ingredient to our dairy and livestock growth was the conflict and turmoil over siting of livestock facilities.

We've watched Minnesota's dairy industry spiral downward because of years of gridlock and no consensus over feedlots and livestock rules. As a result, Idaho, not Minnesota, is now the #5 dairy state in the US.

Despite failed efforts in the past and much advice that this controversial and complex issue could not be solved, together the DATCP Board and staff, along with key legislators were determined to address siting in a fair, open and balanced way which involved all interested parties, not having agriculture "talk to itself".

The Twenty-two members of the Siting Task Force spent months preparing recommendations for legislation. The Legislature's Agriculture Committees met jointly to receive those recommendations and heard from 150 people that testified. Members of a technical panel spent months, a year ago, reviewing the best science upon which to build "application" for a permit for siting. The Rohde Commission of stakeholders then met three more times, including a 10 hour session last December 23. The DATCP Board delayed action a month to allow extensive stakeholder input. DATCP then held 16 public hearings attended by more than 800 people, over 400 offered testimony. Much of this testimony was very good and contained useful suggestions. As a result of this input and continuing dialog with stakeholders, we made nearly four dozen improvements to the rule. (A summary of those changes is in your packet.)

The rule before you reflects a simple fact: when a producer wishes to expand or build a new facility, **if he or she meets the state standards, they cannot be denied a permit.**

It is that simple.

If a producer meets the fair and practical state standards, they cannot be denied a permit.

This is exactly the objective we all set out to achieved, predictability for producers and guidance for local government when issuing a permit; and no erosion of Wisconsin environmental standards.

I think it's fair to observe that any time there is a major action which has wide spread impact proposed, there's bound to be differences of opinion of best ways to approach it.

- There will always be a couple of bumps in the road. Sometimes there will be over- reactions.
- The goal here is not 100% consensus on a complex issue. The key is maintain perspective and do what we set out to do, ensure balance, openness, integrity, and flexibility in implementation.

This proposal is not perfect but it is a good and sound approach. It is the product of work of dozens and dozens of producers, industry people, scientists, local government leaders, and conservationists.

The process has been open and transparent. All stakeholders/people who are affected by the rule have had full and continuing opportunity to present and advocate their ideas— whether dairy and livestock producers, town government, Trout Unlimited, rural neighbors, county officials.

Although most who have been involved with this intensive process for the last 28 months agree that this is a strong and balanced rule that will help Wisconsin's dairy and livestock producers and their industry grow and advance. I expect that there may be several items that can be clarified to address concerns that have recently been raised.

When the DATCP Board voted unanimously on September 14, it endorsed working closely with the legislature and the Department of Natural Resources to ensure that any changes in NR243 do not effectively set animal unit numbers that are lower than in the current rule. The animal unit numbers were extensively discussed in the siting rule discussion and on this rule was predicated on maintaining current levels. It would be inconsistent and unfortunate if these targets were now changed.

Although we have done virtually everything possible to ensure that this rule is practical and sustainable, it is a new process. And, as with anything new, there will be some unforeseen circumstances. The DATCP Board and I are putting in place several provisions to ensure flexibility so we can adjust. These include:

- A. **Technology.** Provisions for an approval process for new Best Management Practices (BMPs). So as technology improves and innovation occurs, it can be incorporated as needed.
- B. **Outreach.** An intensive education and outreach program for producers, local government, neighbors, and other stakeholders. We will partner with ag, dairy and livestock, and conservation organizations, local government, Extension, consultants and others on education, training and outreach to ensure that it is widespread and that there is access to trained experts and good information. And, we will work with producers, neighbors and local government to help ensure smooth implementation.

- C. Progress reports. We will publicly review progress on implementation on a monthly basis with the DATCP Board to ensure clear focus and progress. In addition, we will do a full program review at the end of each year to assess results and make any adjustments needed.
  
- D. Air quality. Finally, we successfully competed for a federal innovation grant on air quality for livestock operations. Ag groups, the Wisconsin Agricultural Stewardship Initiative, Discovery Farms, Pioneer Farms, UW, DNR and DATCP will partner in this effort to identify best ways to manage air quality and odor. This is another significant action step to ensure we address these issues, not just debate them.

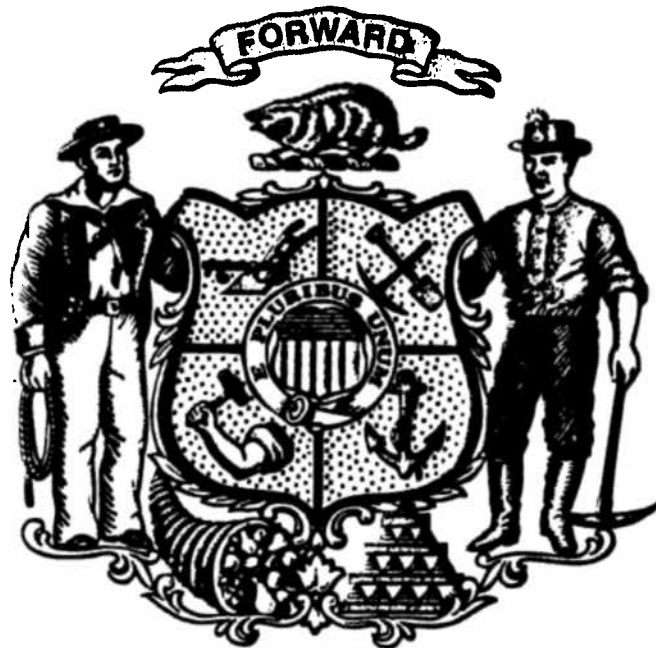
I am very proud of the integrity and diligence of the citizen board of DATCP. They have stood tall on a complex and controversial issue and did so for all of the right reasons.

In the end, to be successful, this rule must face a practical, common-sense test.

1. Does it provide Wisconsin producers who want to grow with predictable, practical guidelines?
2. Will the rural neighbors of these operations feel these farms are good neighbors?
3. Will our environmental standards stay intact?
4. Will local governments have a workable framework to avoid community-splitting conflict?

Without a balanced, fair approach, Wisconsin won't avoid the conflict which stunts growth. It will continue.

So the challenge before us here –for legislators, for this Secretary, our citizen board and for all stakeholders and groups – is the same: Let's remember how far we have come, how we got here and how this rule is not a silver bullet, but rather an important piece of a much larger strategy to ensure that Wisconsin dairy and livestock can grow while being good neighbors and stewards of our natural resources. And let's remember that winning here is not zero-sum/I win – you lose. It's finding the kind of balances that are fair, practical and sustainable for all.





# David Ward

Wisconsin State Assembly  
Member: Joint Committee on Finance

TO: Chairman Al Ott and Members  
Wisconsin State Assembly Committee on Agriculture

FROM: State Representative David Ward  
37<sup>th</sup> Assembly District

DATE: September 29, 2005

RE: DATCP Livestock Siting Rule, ATCP 51

CRule  
05-014 ?

---

Thank you Chairman Ott and members of the Assembly Committee on Agriculture for inviting me to speak today regarding the Department of Agriculture, Trade, and Consumer Protection's rule, ATCP 51, relating to siting livestock facilities. This rule is a result of legislation sponsored by Senator Dale Schulz and myself, 2003 Assembly Bill 868 (AB 868), which was signed by Governor Doyle as Wisconsin Act 235.

The Department has done an excellent job of moving this issue forward, even prior to passage of AB 868. With the formation of the Advisory Committee on Siting Livestock Facilities, the DATCP "Technical Panel", again followed by another review by the Advisory Committee and ultimately the DATCP Board, an unprecedented effort has been made on behalf of the Legislature and the Department in bringing all affected parties together in a cooperative effort to resize, reshape and grow the livestock industry in a responsible manner.

Upon passage of this legislation, I made the commitment to myself, due to the extraordinary bipartisan working relationship and respect for the legislative process, NOT to micromanage the Department's rule-writing process; however, I did offer input and followed the rule through its development.

I understand there have been some members of this body who have been concerned with the results of portions of the product to be before you, particularly the odor standard. I feel there will need to be a number of minor changes made to this and other portions of the rule. I feel odor is an issue that must be addressed as an act of protection for Wisconsin producers. I look forward to working with the committee to make this product even better.

Again, thank you for the invitation to testify.