

Ruby, Erin

From: Rep.Ott
Sent: Thursday, November 10, 2005 10:13 AM
To: Rep.Ainsworth; Rep.Gronemus; Rep.Hines; Rep.Loeffelholz; Rep.Molepske; Rep.Nerison; Rep.Parisi; Rep.Petrowski; Rep.Steinbrink; Rep.Suder; Rep.Towns; Rep.Vruwink; Rep.WilliamsM; Rep.Ziegelbauer
Cc: Anderson, John; Berken, Nathan; Christopher, Marc; Cross, William; Deering, Bonnie; Emerson, Anne; Gaston, Geoff; Hilgemann, Luke; Hilton, Stephanie; Hutkowski, Hariah; Jahnke, Carolyn; Junck, Linda; Kostelic, Luanne; Kraak, Maureen; Langan, Casey; Loomans, Scott; Mueller, Virginia (Legislature); Parrott, Douglas; Patronsky, Mark; Peterson, Eric; Pfohl, Mike; Polzin, Cindy; Redell, Carol; Scott, Katie; Shea, Heather; Whitmore, Lori; Zutz, Toby
Subject: Clearinghouse Rule Referred to Assembly Committee on Agriculture

Members of the Assembly Committee on Agriculture:

The following Clearinghouse Rule has been referred to the Assembly Committee on Agriculture for a 30 day review period:

Clearinghouse Rule 05-014: Relating to livestock facilities siting.

A hard copy of the rule will be distributed to your office.

A public hearing **will** be held on this rule. Please contact my office if you have any questions.

The initial 30 day deadline for committee review is Thursday, December 8, 2005.

DATE: November 10, 2005

TO: Erin Napralla

Committee on Agriculture

FROM: Patrick E. Fuller, Assembly Chief Clerk

RE: Clearinghouse Rules Referral

The following Clearinghouse Rule has been referred to your committee.

CLEARINGHOUSE RULE 05-014

AN ORDER to create ch. ATCP 51, relating to livestock facility siting, and affecting small business.

Submitted by **Department of Agriculture, Trade and Consumer Protection.**

Report received from Agency on **November 1, 2005.**

To committee on **Agriculture.**

Referred on **Tuesday, November 8, 2005.**

Last day for action - **Thursday, December 8, 2005.**

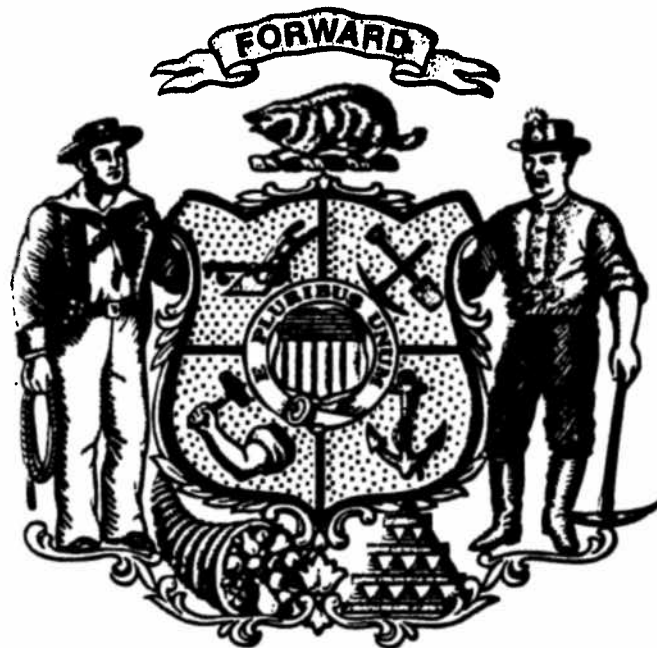
Under section 227.19 (4) of the Wisconsin Statutes, your committee has 30 days to take action or get an extension. The day **after** the official referral date is day one of your review period. Therefore, the 30th day should fall four weeks and two days after the referral date. For example, for Clearinghouse Rules referred on a Monday, a Wednesday would be your 30th day. For Clearinghouse Rules referred on a Tuesday, a Thursday would be your 30th day. For Clearinghouse Rules referred on a Wednesday, a Friday would be your 30th day. For Clearinghouse Rules referred on a Thursday or Friday, your 30th day would fall on a weekend. Therefore, your time would expire on the next working day (Monday) as provided for in s. 990.001 of the Wisconsin Statutes. Also, if the 30th day falls on a legal holiday, time would expire on the next working day.

Section 227.19 **requires** you to notify each member of your committee that you have received this Clearinghouse Rule. Although some committee chairs choose to do so, you are not required by law or rule to send a copy of the text of the rule to each member at this time. Instead, your notice could state that members should contact you if they wish to receive a hard copy of the rule. Another option would be to email the rule to members. **(Please note that the text of Rules beginning with the prefix "01" is available online in the Clearinghouse Rules infobase in FOLIO.)** Please put a copy of your official notification memo in the rule jacket.

Three copies of the Clearinghouse Rule and its accompanying documents are contained in the jacket. If you wish to have your Legislative Council attorney review the Clearinghouse Rule, send him/her a copy. I only need one copy remaining in the jacket when you report it out of committee at the end of the review period.

The identical process is happening simultaneously in the Senate. Keep track of their action on the rule.

For assistance with the Clearinghouse Rule process, please consult Kay Inabnet (6-5550) or your Legislative Council attorney. If you wish to learn more on this subject, read *Review of Administrative Rules* which is part of the Legislative Council's Wisconsin Legislator Briefing Book series, section 227.19 of the Wisconsin Statutes or part 2 of the *Administrative Rules Procedures Manual* written by the Revisor of Statutes Bureau and the Wisconsin Legislative Council staff.





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P.O. Box 22067, Lansing, MI 48909
517-318-2290 (ph) 517-318-1259 (fax) www.greenstonefcs.com

December 6, 2005

The Honorable Alvin R. Ott
Chair, Assembly Agriculture Committee
323 North, State Capitol
Madison, WI 53708

CR 05-014?

Dear Representative Ott:

GreenStone Farm Credit Services on behalf of its approximately 1,500 farmer/owners in Northeast Wisconsin would like to express its thoughts and recommendations regarding the livestock siting rule (ATCP51) adopted by the Department of Agriculture Trade and Consumer Protection (DATCP) Board.

GreenStone appreciates the efforts you and other Wisconsin leaders have made to create predictability in and reduce community conflict over livestock siting in Wisconsin. We support the provision of ATCP51 which strives to balance the interests of livestock facility operators, local governmental units and other interested groups while preserving Wisconsin's sound environment standards. DATCP has made many positive changes to the Rule in response to stakeholder input.

As you are well aware, the issue of odor management is one of the most, if not the most, contentious of the subjects dealt with in the rule. As we understand it, there is a lack of consensus on whether odor management is best addressed through an Off-Set Model comparable to Minnesota's, through the use of a broad list of best management practices to achieve odor mitigation, or some combination of the two.

We at GreenStone would encourage you and other legislative leaders to carefully review and analyze the proposed rule to ensure that it preserves Wisconsin's sound and healthy environment while promoting a strong and vibrant livestock industry. Our objective is to see that Wisconsin maintains its status and reputation as "America's Dairyland" by creating an environment that encourages new and expanding livestock operations. Our lending practices are size-neutral and we encourage the adoption of a rule that is size-neutral as well.

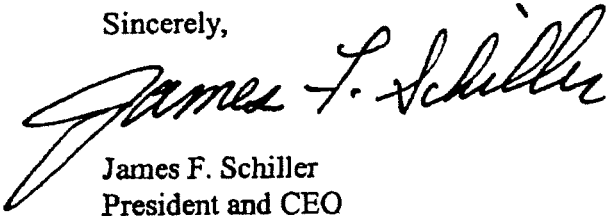
While GreenStone generally supports ATCP51, we believe there are modifications that would be justified to improve the proposed rule. For example, the distinction in the exemption based on the number of animal units for new and expanding operations should be removed. It appears such a distinction will only cause confusion as to when a livestock facility transitions from a new operation to an existing operation that is looking to expand. We believe that animal unit

calculations need to be coordinated with the DNR as they finalize their NR 243 rule-making. Confusion and contrasting regulations will only discourage producer confidence in the system.

GreenStone appreciates the hard work you and others have done to establish rules and a legislative framework to deal with the frustrations Wisconsin livestock farmers have endured. We applaud your commendable efforts.

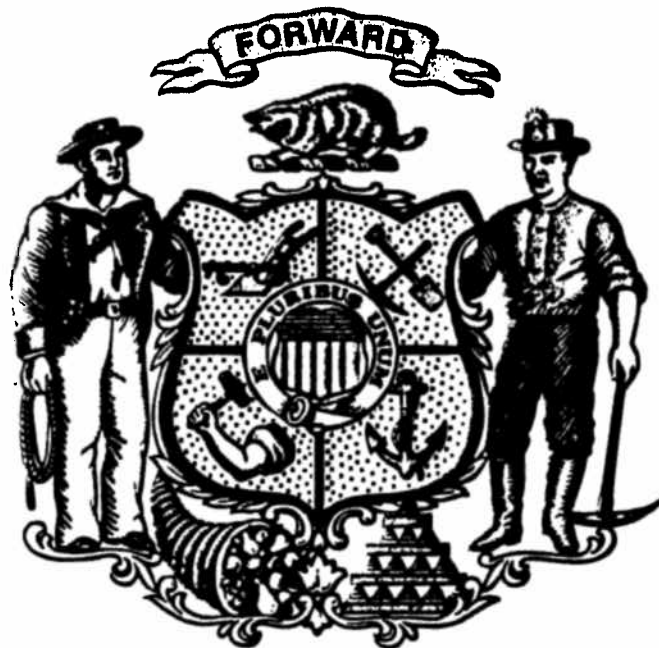
Thank you for the opportunity to comment.

Sincerely,



James F. Schiller
President and CEO

c: Gordon Foss, Badgerland FCS
Paul DeBriyn, AgStar Financial Services
Mike Krutza, United FCS
Bill Oemichen
Board Notebook



Ruby, Erin

From: Rosenholm - Wolfe Dairy [nrosenow@mwt.net]
Sent: Wednesday, December 07, 2005 3:27 PM
To: Rep.Ott; Sen.Kapanke
Cc: Rep.Gronemus
Subject: testimony on siting
Attachments: "AVG certification"

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The Honorable Al Ott and Senator Kapanke

Could you please share this with your colleagues for tomorrow's hearing?
 Thank you very much.

John Rosenow

Comments by John Rosenow on the proposed Siting rules developed by WDATCP.

My name is John Rosenow of Buffalo County. Along with my partners, Nettie Rosenow and Loren Wolfe, we milk 550 cows and crop about 1000 acres. We have 18 employees and also sell composted cow manure from our dairy.

The concept of making rational decisions on livestock facility siting is sorely needed in Wisconsin and the rest of the country. When I was young, those decisions were much easier. That was quite a few years ago and today the landscape has changed. Wisconsin is now the 7th most urbanized state in the country. This means that it no longer is solely a farmer or rural issue when livestock facilities are constructed almost anywhere in Wisconsin. Added to that is the economic necessity of concentrating those livestock in larger and larger farms. This adds to the complexity of those siting issues because of the perception and in many cases reality of resultant conditions being less than neighborly.

It seems to me that the way to address this in a public policy format would be to bring the major directly affected parties together to broadly address the controversial issues, allow those lesser affected parties to have input via a hearing process and allow the huge majority of citizens who do not really care at all about the issue to allow their elected representatives to make the final decision. This would be a textbook style of process that any responsible democracy would call good government. As with all compromise decisions there will be some disgruntled citizens. It is, though, what good government does.

The process on the siting rules began for me in July of 2003 with the advisory committee on siting. We met 4 times until October and 4 more times from November 2004 to February 2005. I felt the broad representation allowed the major affected groups to work out a compromise and ultimately we did. The groups represented included

Farmers

Farm Bureau
 Dairy Business Assn
 Farmers Union
 Pork Producers Assn
 Beef Producers Assn
 2 Dairy producers

Environmentalists

Trout Unlimited
 Michael Fields Institute
 River Alliance of Wis
 An attorney

Government

Towns
 Counties
 Universities
 DNR
 NRCS
 County Zoning people

The result of this process was a rule that recognized that we all must eat everyday, that the livestock

industry is very important to Wisconsin in many ways, that larger farms can be good neighbors and that livestock and pollution do not mean the same thing. We set a beginning date so that there would be no race to regulate. Based on the intelligence around the room at those meetings, I feel very comfortable with the compromise.

It may be important to note that I was on the committee as an independent farmer with no need to please a membership or create membership. In light of that I could act objectively although my interest is in large farms. My interest has been satisfied by the current proposed rule.

My friends that are on town boards do not want to have to deal with these difficult issues. Instead they want a set standard that they can follow so it is fair for everyone. The odor standards are necessary because we must be good neighbors and the technology is available to fix odor problems. Lastly, I will feel more comfortable investing my time and money on future plans that include more dairy cows in this state rather than in South Dakota if the rules are adopted

Thank you for your efforts on this important matter.

I will be unable to attend the hearing due to many complications including 10-15 degrees below zero the last few days.

John Rosenow
S1843 Cty Rd U
Cochrane Wi 54622





Wisconsin Federation of Cooperatives

131 West Wilson Street, Suite 400, Madison, WI 53703
Phone: 608.258.4400 Fax 608.258.4407 www.wfcmac.org wfcmac@wfcmac.org

DATE: December 7, 2005

TO: Members, Senate Committee on Agriculture & Insurance
Assembly Committee on Agriculture

FROM: Bill Oemichen, President & CEO *Bill Oemichen*
John Manske, Government Affairs Director *Jm*

RE: Testimony on Rule 05-014

The Wisconsin Federation of Cooperatives appreciates the opportunity to present our views on proposed Rule 05-014, relating to livestock siting. I regret that a prior meeting commitment with our state's Members of Congress will prevent me from speaking at the joint hearing of the two committees. However, I hope you will still take our comments into consideration during your deliberations. As you know, we represent the cooperatives that market more than 90% of the milk produced in this state, as well as a number of beef marketing cooperatives as well.

WFC's overriding concern is to ensure Wisconsin remains in the top two states for dairy production. You know well the challenges we in the dairy industry have faced as we have witnessed an average of three dairy operations leaving the industry daily. This had led to our cooperative milk processing plants operating at less than full capacity. Of course, the shortage of milk has had a substantial impact on the economies of local areas where plants have been closed and on the state's overall economy as well.

We are committed to keeping Wisconsin as the nation's leading cheese producer. We were very pleased the Legislature joined us in this commitment by enacting the Dairy Investment Tax Credit, a law that has already encouraged at least \$120 million in reinvestment by dairy producers in their operations. However, we also know that our ability to modernize is effected greatly by state and local environmental and land use regulations. For this reason, we were very pleased as well last session when you enacted the state's new Livestock Siting Statute. That law was initiated by organizations motivated to strengthen the future for the Wisconsin livestock industry by bringing greater uniformity and predictability to the government regulation of this industry. WFC and its cooperative members were pleased to be an early and consistent supporter of the legislation that became 2003 Wisconsin Act 235 and we were particularly heartened by the broad cross section of agriculture and government policy-makers that were leading and supporting the legislative effort.

WFC again indicates our appreciation for the efforts you and other Wisconsin policy and agriculture leaders are making to ensure that the rule does what was intended by Act 235. As you may know, WFC submitted recommendations to DATCP in early April, 2005 on the proposed rule and our letter raised some concerns regarding some of the proposed provisions. However we were impressed with the willingness of DATCP leadership to make many positive changes to the Rule in response to stakeholder input. Setback requirements, odor standards, runoff standards and numerous other important aspects of the rule proposal were changed to acknowledge the valued input of farmers who appeared in huge numbers at the public hearings. One of the most important step in our view was the testing of the odor scoring at farms, both currently WPDES-permitted and those volunteered by organizations. This resulted in rule changes that will help assure that 90-percent or more of the farms that face siting approval obtain passing scores and this change is vital to the future of our state's dairy industry.

Other changes we support include:

- ✓ Providing a positive scoring system,
- ✓ Allowing for the complete exemption for facilities more than 2,500 feet from the nearest affected neighbors,
- ✓ Crediting up to 30% for favorable wind direction,
- ✓ Clarifying that an odor score may not be used as a nuisance standard,
- ✓ Grandfathering existing structures for setback purposes,
- ✓ Capping local setbacks, and
- ✓ Allowing for credits for innovative practices not yet identified and guarantees local approval for those who meet the standard.

This last provision enhancement is key because the viability of our state's dairy industry depends in large part on whether modernizing dairy producers believe they will participate in a predictable review process that makes clear what is to be expected of them. This predictability allows dairy producers to determine whether or not they can meet the necessary standards before they invest their time and capital into the modernization project. This predictability will give Wisconsin a significant advantage over other states in modernizing our dairy industry because this predictability is missing in many other states.

The rule is not perfect and, yet, we caution the Committees to not let "perfect" be the enemy of "good." The proposed odor provisions have been little tested and need to be closely monitored to ensure they are not acting to hinder, rather than to support, the modernization of a financially healthy and environmentally friendly dairy industry. Moreover, we question the distinction in the odor standard exemption based on the number of animal units for new and expanding operations.

Once again, WFC's priority objective is to ensure Wisconsin maintains its status and reputation as "America's Dairyland" by creating an environment that encourages new and expanding livestock operations. While we are aware that there are some who believe that the rule before you falls short of attaining the goals spelled out in Act 235, we have not been convinced that the rule referred to your committees will jeopardize positive siting decisions by existing or newly-locating producers, nor will it endanger the valued and necessary investments in the dairy and other livestock industries so necessary for a healthy livestock sector. We believe that the Livestock Facility Siting Review Board (LFSRB) can play a key role when an "aggrieved" party results from a siting decision outcome, although only experience will show how often this step is utilized.

When the DATCP Board unanimously advanced the rule to the legislature, they added process steps that are going to help ensure that their citizen board knows just what impact the rule is having. We understand the rule will be monitored closely, including DATCP staff providing the Board monthly activity reports on rule implementation. We think this close monitoring is necessary and desirable from everyone's perspective. Furthermore, DATCP has committed to odor research and a vigorous training and outreach effort. We are confident these, along with other steps, will ensure the rule follows the intent of Act 235.

WFC appreciates the hard work you and others have done to advocate for dairy and other livestock industries and to advance legislation during the previous and existing legislative sessions to strengthen Wisconsin's diverse agricultural sector. We applaud your efforts and we hope you too believe that "the best is yet to come" for Wisconsin's agriculture.

Thank you for the opportunity to submit comments on behalf of the Wisconsin Federation of Cooperatives at today's hearing.





December 7, 2005

The Honorable Al Ott
Chair, Assembly Agriculture Committee
323 North, State Capitol
Madison, WI 53708

The Honorable Dan Kapanke
Chair, Senate Agriculture and Insurance Committee
104 South, State Capitol
Madison, WI 53707-7882

The Honorable David Ward
Wisconsin State Assembly
324 East, State Capitol
Madison, WI 53708

Gentlemen:

AgStar Financial Services on behalf of its approximately 2000 farmer/owners in Wisconsin would like to express its thoughts and recommendations regarding the livestock siting rule (ATCP 51) adopted by the Department of Agriculture Trade and Consumer Protection (DATCP) Board.

AgStar appreciates the efforts you and other Wisconsin leaders have made to create predictability in and reduce community conflict over livestock siting in Wisconsin. We support the provision of ATCP 51 which strives to balance the interests of livestock facility operators, local governmental units and other interested groups while preserving Wisconsin's sound environment standards.

As you are well aware, the issue of odor management is one of the most, if not the most, contentious of the subjects dealt with in the rule. As we understand it, there is a lack of consensus on whether odor management is best addressed through an Off-Set Model comparable to Minnesota's, through the use of a broad list of best management practices to achieve odor mitigation, or some combination of the two.

We at AgStar would encourage you and other legislative leaders to carefully review and analyze the proposed rule to ensure that it preserves Wisconsin's sound and healthy environment while promoting a strong and vibrant livestock industry. Our objective is to see that Wisconsin

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December 7, 2005

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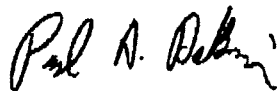
maintains its status and reputation as "America's Dairyland" by creating an environment that encourages new and expanding livestock operations.

While AgStar generally supports ATCP 51 we believe there are modifications that would be justified to improve the proposed rule. For example, the distinction in the exemption based on the number of animal units for new and expanding operations should be removed. It appears such a distinction will only cause confusion as to when a livestock facility transitions from a new operation to an existing operation that is looking to expand.

AgStar appreciates the hard work you and others have done to establish rules and a legislative framework to deal with the frustrations Wisconsin livestock farmers have endured. We applaud your commendable efforts.

Thank you for the opportunity to comment.

Sincerely,



Paul A. DeBriyn
President and CEO