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Details:

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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) (**ajr** = Assembly Joint Resolution)
  (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

State of Wisconsin
Jim Doyle, Governor

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

February 9, 2006

The Honorable Al Ott, Chair, Assembly Committee on Agriculture
The Honorable Dan Kapanke, Chair, Senate Committee on Agriculture and Insurance
Wisconsin Legislature
P.O. Box 8952
Madison, Wisconsin 53708

Dear Representative Ott and Senator Kapanke:

Re: Livestock Facility Siting *(Clearinghouse Rule 05-014)*

On November 1, 2005, the Department of Agriculture, Trade and Consumer Protection ("DATCP") referred, for Legislative committee review, a proposed final draft rule related to Livestock Facility Siting. The proposed rule implements Wisconsin's Livestock Facility Siting Law, s. 93.30, Stats., which took effect on October 1, 2005. The application of the law is uncertain, pending the adoption of implementing rules.

On December 9, 2005, the Senate Committee on Agriculture and Insurance asked DATCP to consider modifications to the rule (the committee did not specify the modifications requested). On December 21, 2005, the Assembly Committee on Agriculture also asked DATCP to consider modifications to the rule. The Assembly Committee attached a motion identifying, in general terms, the modifications requested (the Assembly Committee also attached lists of modifications requested by individual members of the committee).

DATCP has carefully considered all of the requested modifications, including those requested by individual committee members, and has made important changes in response to many of the requests. We believe that the changes improve and clarify the final draft rule, and make it even more beneficial to the livestock industry. The final draft rule, as modified, will do all of the following:

- Promote orderly growth and modernization of Wisconsin's critical livestock industry, and give Wisconsin an important competitive edge over other states.
- Promote livestock industry investment, by bringing real certainty to the local permit process.
- Provide real, long-term "right to farm" protection.
- Promote orderly land use decisions, and help to preserve working lands.
- Reduce the conflict that has divided local communities.
- Protect Wisconsin's environment, upon which we all depend.

This memorandum summarizes key changes made in response to committee requests, and explains the context and rationale for those changes. The attached rule draft shows the exact changes, in convenient highlighted form. The DATCP Board approved these changes on February 8, 2006.

Some Basic Points to Remember

It is important to remember the following points:

- Livestock operations currently face a patchwork of confusing local regulations. Local governments may deny permits for no clear reason, and the permit process is often lengthy, expensive, and charged with emotional conflict. Some operators have spent hundreds of thousands of dollars on a permit application, only to have the permit denied. *This rule fundamentally changes the current system by setting clear uniform standards, guaranteeing approval of facilities that meet those standards, and requiring timely local action.*

- The rule does not mandate local regulation. But *if* a local government does regulate (as many already do), it must use the reasonable standards in this rule. A standard application form contains all the information needed. An operator can use the application form to plan and evaluate options, before applying. *A properly completed application essentially guarantees local approval.*

- This rule replaces local regulations that, in some cases, have made it nearly impossible to start or expand livestock operations. This rule provides clear, objective standards that protect livestock operators, local communities and the environment.

- This rule applies only to *new or expanding* livestock facilities, and *only* in local jurisdictions that have a local permit requirement. *If there is no local permit requirement, this rule does not apply.*

- The Livestock Facility Siting Law essentially prohibits local permit requirements for facilities below 500 "animal units" (unless a local ordinance set a lower threshold prior to July 19, 2003). This rule applies only to larger facilities, and will affect an estimated *50 to 70 livestock siting applications per year.*

- Under this rule, an *existing* livestock facility may expand initially by up to 20% *without* a local permit, even if the expanded facility will exceed 500 "animal units." For example, a 490 "animal unit" facility may expand to 588 "animal units" without a permit, even if the local permit threshold is 500 "animal units." A 600 "animal unit" facility may expand to 720 "animal units" without a permit.

- This rule provides real, long-term "right-to-farm" protection for livestock facilities that secure local approval. Local approval provides protection against "nuisance" claims and encroaching development.

- This rule does not change current law related to cost-sharing, or limit cost-sharing in any way. Current law does not require local governments to finance the voluntary expansion of livestock facilities. But, to the extent that a producer may be entitled to cost-sharing under current law, that right remains intact under this rule. Even if cost-sharing is not required, a local government may offer cost-sharing if it wishes to do so.

Improved Odor Management Standard

Odor is the single most contentious issue related to new and expanded livestock facilities. This rule establishes an objective, research-based odor management standard for livestock structures. However, the following livestock facilities are *completely exempt* from the standard (unless the livestock operator voluntarily elects to have the standard apply):

- Expanded livestock facilities under 1,000 "animal units."
- New livestock facilities under 500 "animal units."
- Livestock facilities located at least 2,500 ft. from the nearest "affected neighbor" (not counting neighbors who agree to be excluded).

If the odor management standard applies to a new or expanded livestock facility, an operator calculates an odor score using an odor management worksheet (or convenient automated spreadsheet). The operator can calculate the odor score, and evaluate options, before ever submitting an application for local approval.

The odor score is based on predicted odor from livestock structures, the operator's odor control practices, and the distance and density of the nearest "affected neighbors." If the operator meets the odor score standard, the local government *must approve* the livestock facility (assuming that the facility meets other applicable siting standards under this rule).

DATCP has tested the odor standard on dozens of real livestock facilities (existing and proposed). Nearly all of the facilities have met the standard, *even without any new odor control practices*. Others could meet the standard by implementing a few reasonable odor control practices. Most of the tested facilities also had substantial leeway for *future expansion*. The operators we worked with (most chosen by industry groups) were favorably impressed with the procedure and results.

The odor score is a one-time calculation that leads to once-and-for-all approval, assuming that the facility is operated as described in the application. The odor standard does not require any ongoing odor test, and the operator gains real protection against odor nuisance complaints.

What is more, the local approval "locks in" the nearest "affected neighbor" reference points for future expansions, even in the face of encroaching development. The local approval gives the operator real "right-to-farm" protection.

The rule gives credit for a wide array of odor control practices, including simple and inexpensive options. Operators can also get credit for innovative practices, not yet listed in the rule, if those practices are pre-approved by DATCP. DATCP approval is binding on the local government.

The odor management standard in this rule may also help to control air pollution emissions. The Department of Natural Resources has agreed to use the framework provided by this rule, to help avoid conflicting regulation (see DNR letter attached). DATCP has also obtained a major grant to fund research on odor management and air emissions. We have added a *note* to this rule, saying that we will modify the rule as appropriate based on research findings.

In response to your committee requests, we have made the following additional changes to the odor management standard in this rule (ALL of these changes will benefit livestock operators):

- *We have clarified and strengthened the long-term "right-to-farm" protection afforded by the rule, and by local approvals under the rule (see discussion below).*
- *We have eliminated the "predicted odor" cap, which capped the maximum odor a facility could generate regardless of the distance to "affected neighbors" (the remaining "odor score" standard gives credit for that distance).*
- *We have recognized, and given credit for, additional odor control practices (see revised odor management worksheet).*
- *We have refined and improved the calculation of odor score, including predicted odor from livestock housing (see revised worksheet).*
- *We have completely exempted structures that have a limited impact on odor: holding areas, milking parlors, feed alleys, calf hutches (up to 1000), and up to 4 minor independent housing structures (see revised worksheet).*
- *We have revised the definition of the "bottom fill" odor control practice, to remove the reference to "no turbulence" (see revised worksheet).*
- *We have given credit for optional, supplementary odor control plans (see revised worksheet).*
- *We have clarified instructions in the odor management worksheet, to make it even more user-friendly.*
- *We have modified terminology, using "odor control practices" rather than "best management practices" (no substantive change).*
- *We have added a note, indicating our commitment to refine the rule as appropriate based on periodic review of rule implementation and research findings.*
- *We have allowed livestock operators to submit an odor worksheet voluntarily, even if they would normally be exempt from the odor standard, in order to "lock in" the nearest affected neighbor reference points for future expansions (this option applies only if the operator is required to obtain a local permit for a proposed new or expanded livestock facility).*

Stronger "Right-to-Farm" Protection

This rule provides real, long-term "right-to-farm" protection for approved livestock facilities. *In response to your committee requests, we have made the following additional changes to strengthen and clarify this protection:*

- *We have clarified that a local approval "runs with the land." The approval remains in effect, despite a change in ownership of the livestock facility, as long as the new operator does not materially violate the terms of approval (representations made in the application on which that approval was based). An operator and a local government may agree to modify the terms on which local approval was originally granted (to accommodate operational changes over time). A local government may not refuse to permit reasonable changes that maintain compliance with rule standards. No new permit application is required, unless the operator proposes to exceed the number of "animal units" originally approved. An operator need not consult with local government on changes that are consistent with the original terms of approval.*

- *We have clarified that a local approval generally remains in effect regardless of when or whether the livestock operator exercises the full authority granted by the approval. For example, if an operator gets local approval to expand from 400 "animal units" (existing) to 900 "animal units," the operator may implement the approved expansion in stages, over a period of time chosen by the operator. The approval still applies (and "runs with the land"), even if the operator does not expand to the full authorized level of 900 "animal units." However, a local government may withdraw local approval if the operator does not at least do all of the following within 2 years after the local approval is granted:*

  - ***Begin** populating the new or expanded livestock facility.*
  - ***Begin** constructing any new or substantially altered animal housing or waste storage facilities that the operator proposed in the application for local approval.*

Under this rule, if an operator seeks local approval for the *expansion* of a livestock facility for which there has been a *prior local approval* under this rule, the operator may calculate an odor score (see above) by reference to the same "affected neighbors" referenced in the *prior approval.* The operator is *not* required to consider new development that has encroached on the livestock facility since that prior approval. The rule thus protects the operator against the effects of encroaching development. *In response to your committee requests, we added the following provisions to strengthen and clarify this protection:*

- *The operator may use the prior "odor score" reference points regardless of any change in livestock facility ownership since the prior approval, and regardless of the amount of time that has passed since the prior approval.*

- *Whenever a local government approves a livestock facility siting application, the local government must give the operator a copy of the approved application (including maps with odor reference points) marked "approved." An operator may record this with the register of deeds (and convey it to a subsequent owner), in order to document odor reference points for future expansions. The local government must also keep the approved application for at least 7 years, and file a copy (including maps) with DATCP.*

Animal Units

The Livestock Facility Siting Law defines "animal units" by reference to current DNR rules, which specify "animal unit" equivalents for different types of livestock. To determine the size of a livestock facility, current DNR rules aggregate the "animal units" for all types of livestock kept at that facility. DNR has used the current method for well over 20 years, and livestock operators are familiar with it. The Legislature, and all of the affected interest groups, had that method in mind when the Livestock Facility Siting Law was enacted.

The calculation of "animal units" is basic to the law, to this rule, and to the jurisdiction of local government. The law essentially prohibits local regulation below 500 "animal units." This rule applies the same size threshold. Several of the standards in this rule are also based on "animal units" (for example, an expanding livestock facility under 1,000 "animal units" is completely exempt from the odor score standard). A change in "animal unit" calculation could have a dramatic impact on rule coverage and content.

Some of your committee members asked DATCP to change the calculation of "animal units." We were able to address many of their concerns without changing the actual calculation of "animal units" (which is mandated by the Livestock Facility Siting Law):

- *Consistent with Legislative Council staff opinion, we have clarified that "animal units" will be calculated according to DNR rules as they existed when the Livestock Facility Siting Law was enacted. If DNR changes its rules (for example, in a way that adversely affects livestock operators), that change will not affect the Livestock Facility Siting Law or this rule.*

- *We have made other changes in this rule, to give favorable treatment to "separate species facilities" (see below). This addresses, in a different way, some of the concerns of committee members who favored a complete disaggregation of "animal units" (which we are unable to do under current law).*

This was the only approach that DATCP could take to address legislator concerns, because the method for calculating "animal units" is mandated by the Livestock Facility Siting Law. If, in the future, the Legislature enacts and the Governor signs legislation to change the entire method of calculating "animal units" under DNR's pollution control program and the Livestock Facility Siting Law, we would naturally have to conform our rule to the law as modified.

However, such a change could have far-reaching ramifications for Wisconsin's pollution control program as it has existed for more than 20 years. It could also complicate administration of the Livestock Facility Siting Law and this rule. We do not believe that this rule (which has already been delayed more than 4 months beyond the completion date contemplated in the Livestock Facility Siting Law), should be further delayed pending the uncertain outcome of such legislation.

Separate Species Facilities

An underlying concern related to "animal units" involves the treatment of separate species facilities. For example, in a community that has a 500 "animal unit" permit threshold, if the operator of a 450 "animal unit" dairy farm adds 450 "animal units" of poultry without otherwise expanding the dairy operation, must the operator get local approval for the combined (900 "animal unit") facility (even though the dairy operation is unchanged)?

We have modified the rule so that a "separate species facility" may be treated as a ***separate livestock facility*** *for purposes of local regulation (even if it is owned by the same person and located on the same land as a related livestock facility), if the operator elects to do so and if certain conditions are met. So, for example:*

- *In a community that regulates at 500 "animal units" and above, if an existing 450 "animal unit" dairy facility adds a 450 "animal unit" poultry facility, neither facility will need a permit (neither facility reaches the permit threshold).*

- *In a community that regulates at 500 "animal units" and above, if an existing 700 "animal unit" dairy facility adds a 450 "animal unit" poultry facility, neither facility will need a permit (the new poultry facility is under the permit threshold, and the existing dairy facility has not expanded).*

- *In a community that regulates at 300 "animal units" (grandfathered ordinance), if an existing 450 "animal unit" dairy facility adds a 450 "animal unit" poultry facility, the new poultry facility will need a permit but the existing dairy facility will not.*

Certain conditions must be met, in order for this treatment to apply. For example, the operator of a 1,600 "animal unit" cattle feedlot may not just divide the feedlot into 4 parts, and claim that no local permit is required because each part has fewer than 500 "animal units." In order to be treated as a separate livestock facility (not part of a related facility), a "separate species facility" must meet all of the following criteria:

- *It must have only one type of livestock (cattle, swine, poultry, sheep or goats), and that type may not be found on the related facility. Thus, cattle and poultry operations may be treated separately, but dairy and beef cattle operations may not (because both include "cattle"). Milking cows, calves, heifers and steers are all "cattle." Turkeys, ducks, geese and chickens are all "poultry."*

- *It must have no more than 500 "animal units."*

- *Its livestock housing and manure storage structures (if any) must be separate from livestock housing and manure storage structures used by the related facility.*

- *It must meet one of the following criteria:*

    - *Its livestock housing and manure storage structures must be located at least 750 ft. from livestock housing and manure structures used by the related facility (so it can be treated separately for purposes of odor score calculations).*
    - *It and the related facility must have a combined total of fewer than 1,000 "animal units."*

We believe that this approach addresses a legitimate industry concern, without threatening the underpinnings of the Livestock Facility Siting Law or DNR's nonpoint source pollution control program as it has existed for more than 20 years. This is a carefully proscribed provision to address a specific concern, not a fundamental change to the current method of calculating and aggregating "animal units."

Existing Livestock Facilities

This rule gives special consideration to existing livestock facilities, and facilitates the expansion of those facilities. An "expansion" of a livestock facility, as defined by the Livestock Facility Siting Law, means an increase in the maximum number of "animal units" kept at the facility for at least 90 days in any 12-month period. An "expansion" may or may not involve the construction or alteration of livestock structures.

This rule applies only to *new or expanded livestock facilities*, and *only* if a local permit is required under a local ordinance. The Livestock Facility Siting Law essentially *prohibits* local permit requirements for new or expanded facilities under 500 "animal units" (unless the local government enacted a lower permit threshold prior to July 19, 2003).

Under this rule, an *existing* livestock facility may initially expand by up to 20% *without* a local permit, *even if* the expanded facility will exceed 500 "animal units." For example, a 490 "animal unit" facility may expand to 588 "animal units" *without* a local permit, *even if* the local permit threshold is 500 "animal units." A 600 "animal unit" facility may expand to 720 "animal units" *without* a permit.

Even *if* a local permit is required for an expanded livestock facility, that facility is not held to the same standards as a new facility. For example:

- An expanded livestock facility under 1,000 animal units is *completely exempt* from the odor standard under this rule. An expanding livestock facility over 1,000 "animal units" may calculate its odor score using the same reference points used for a prior approval under this rule (see above), even if there has been encroaching development since that prior approval.

- *Existing livestock structures* (including manure storage structures) are *exempt* from property line and road setback requirements (they may continue in use, and may even expand without limit, as long as they do not expand closer to the property line).

- *Existing waste storage structures* need not be altered, or rebuilt to current construction standards, as long as they show no obvious signs of leakage or structural failure. An agricultural engineering practitioner of the operator's choice may certify this in the application for local approval, so that the application may be approved without further local inspection. (The application creates a presumption of approval.) This rule does *not* require expensive soil or engineering tests on existing structures, unless there is clear evidence of serious problems.

- *Existing animal lots* need not be altered, as long as they meet current state runoff standards. This rule provides a convenient objective measure of compliance (to eliminate disputes), and allows an agricultural engineering practitioner of the operator's choice to certify compliance in the application for local approval, so that the application may be approved without further local inspection. (The application itself creates a presumption of approval.)

- Construction standards under this rule apply to *new or substantially altered* structures, not unaltered existing structures.

In response to committee concerns, we have made additional changes to help existing livestock facilities:

- *We have expanded a key "grandfather" exemption for waste storage structures. Waste storage structures are generally subject to a 350 ft. property line setback requirement. However, under the prior draft rule, existing waste storage structures within the setback area were "grandfathered" (they could continue to exist, and could even expand, as long as they did not expand toward the road or property line). This draft retains that exemption, and further allows the operator to build a* ***new*** *waste storage structure within the setback area, as long as the new structure is no closer to the road or property line than the existing "grandfathered" structure, is no larger than the existing structure, and is no further than 50 ft. from the existing structure.*

- *We have made it easier for an existing livestock facility (such as a dairy facility) to add a "separate species facility" (such as a poultry facility) without triggering local permit requirements (see above).*

Some individual legislative committee members asked for a complete exemption of all existing livestock structures, of whatever kind. The revised draft rule gives favorable treatment to existing structures, and exempts them from many requirements (see above). However, a complete exemption would be inconsistent with the law (which defines an "expansion" in terms of an increase in "animal units," not building construction), and would lead to outcomes that no one would find acceptable. For example:

- Suppose that an *existing* livestock facility creates a serious odor problem, resulting in many public complaints. The operator now applies for a local permit to double the number of animals kept at the livestock facility (say from 900 to 1,800 "animal units"). The operator proposes to keep all of the animals in the *existing* livestock structures (no new or expanded structures). If DATCP were to take the approach suggested, the local government would be *required* to approve the expansion, without any odor score calculation, because all "existing structures" would be completely exempt from rule standards (including the odor standard).

- Suppose that a livestock facility has a manure storage structure that leaks, or is structurally unsound. The operator now applies for a local permit to double the number of animals kept at the livestock facility. The operator does not propose to add manure storage capacity, and in fact proposes to store the additional manure in the existing structure. If DATCP were to take the approach suggested, the local government would be *required* to grant the permit, regardless of the capacity or condition of the existing manure storage structure, because that "existing structure" would be completely exempt from all rule standards.

Although we cannot in good conscience provide a *complete exemption* for all "existing structures" that are part of an expanded livestock facility, we have given very favorable treatment to those structures and facilities (see above). The bottom line is that this rule will promote and facilitate responsible expansions of existing livestock facilities, and will not require unnecessary modification of existing structures.

Notice to Adjacent Property Owners

At the request of your committees, we have added a provision that requires local governments to notify adjacent property owners of pending applications for local approval of new or expanded livestock facilities. This provision was developed with broad-based input from key constituencies, including towns and counties, realtors and farm groups. Under the revised draft rule:

- *A local government must notify adjacent property owners within14 days after the local government determines that a siting application is complete (but before the local government grants or denies the application). The local government must give the notice in writing, by first class mail.*

- *The notice must be in the exact form shown in the rule (Appendix C). The notice describes state standards for local approval of new or expanded livestock facilities, and the approval process that the local government must follow. It also explains the right of appeal to the Wisconsin Livestock Facility Siting Review Board.*

- *The local government may recover its reasonable costs from the applicant, subject to a $1,000 cap on total charges to the applicant.*

- *Failure to give notice does not invalidate a livestock facility approval, or create a cause of action against a local government.*

Cost-Sharing

This rule does not change current law related to cost-sharing, or limit cost-sharing in any way. Current law does not require local governments to finance the voluntary expansion of livestock facilities. But, to the extent that a producer may be entitled to cost-sharing under current law, that right remains intact under this rule. Even if cost-sharing is not required by law, a local government may offer cost-sharing if it wishes to do so.

Under current state law:

- A local government may not approve a new or expanded livestock facility unless that facility meets state livestock facility siting standards (see s. 93.30(3)(ae), Stats.).

- A local government may approve a new or expanded livestock facility, without offering cost-sharing for that facility, if the facility will have 500 "animal units" or more (*see* s. 93.30(3)(d), Stats.).

- Cost-sharing for new or expanded livestock facilities under 500 "animal units" is governed by *current* state nonpoint pollution law and by DNR rules (DATCP nonpoint rules refer to DNR rules). Generally speaking, current law requires cost-sharing only if a state or local government entity *requires* an operator to discontinue or modify an *existing* livestock facility to comply with state nonpoint *water pollution* standards. An operator is not necessarily entitled to cost-sharing if the operator voluntarily constructs or expands a livestock facility.

This rule does not limit any current cost-share rights, nor does it limit local authority to provide voluntary cost-sharing. The availability of state and local cost-share funds is limited (not by this rule, but by state and local budget constraints). We are not able, in this rule, to change current statutes or DNR rules related to cost-sharing.

Legislative Intent

At the request of your committees, we have added notes referring to the "legislative intent" of the Livestock Facility Siting Law. Different persons may have different views of what was intended, so we have simply incorporated what the Legislature actually said about its intent, namely:

> *"This [law] is an enactment of statewide concern for the purpose of providing uniform regulation of livestock facilities."*
>
> *"...[T]he department shall consider whether [livestock facility siting standards] are all of the following:*
>
> - *Protective of public health or safety.*
> - *Practical and workable.*
> - *Cost-effective.*
> - *Objective.*
> - *Based on available scientific evidence that has been subjected to peer review.*
> - *Designed to promote the growth and viability of animal agriculture in this state.*
> - *Designed to balance the economic viability of farm operations with protecting natural resources and other community interests.*
> - *Usable by officials of political subdivisions."*

Other Changes

We have made a number of minor and non-substantive technical changes to clarify and correct the final draft rule. Some of these changes were suggested by your committee members or Legislative Council staff, and others were made on our own initiative.

We have not made all of the changes requested by individual members of the Assembly Committee. However, we believe that we have been very responsive to the committees, and to most of the concerns of the individual members. In some cases, we addressed concerns in a slightly different way. In some cases, we disagreed with a request, or were legally constrained from making a requested change.

We have reviewed our prior fiscal estimate, business impact assessment and environmental assessment related to this rule, in light of the changes that we are now proposing. We do not

believe that the changes materially alter any of those prior evaluations, except that the changes will have additional benefits for the livestock industry (as explained in this memo and the revised environmental assessment).

Conclusion

In conclusion, DATCP has carefully considered the rule modifications requested by your committees, and has made important changes in response to the requests. We believe that the changes improve and clarify the final draft rule, and make it even more beneficial to the livestock industry. At the same time, we believe that the revised draft rule protects the legitimate interests of local communities, and the local governments that represent them.

We have been working on this issue for the past 3 years. At the request of the livestock industry, we first worked to develop and enact the Livestock Facility Siting Law, in consultation with legislative sponsors and a broad-based advisory committee. For the past 2 years, we have been working on this rule to implement the new law.

This rulemaking process has been open and transparent to an unprecedented degree, involving extensive input from a panel of technical experts, a stakeholder advisory committee, 12 public hearings, extensive DATCP Board review, several legislative hearings, countless meetings with stakeholder groups, on-farm visits and "reality testing," and thousands of hours of staff time. We have carefully listened to, and balanced, different concerns and points of view.

This rule will provide livestock operators with needed certainty and "right-to-farm" protection. It will protect community interests and the environment. It will reduce the conflict that has divided local communities. It will provide the foundation for needed industry investment and growth, and give Wisconsin an important competitive edge over other states.

This rule involves a careful balancing of many affected interests. It is not possible to achieve unanimous agreement on every issue related to livestock facility siting. However, we believe that our proposed changes are very responsive to the stated concerns of the committees. We hope that this important rule (which is already more than 4 months overdue) can proceed quickly to final adoption.

It is time, indeed past time, to finish the job.

Sincerely,

Rodney J. Nilsestuen, Secretary

Cc: DATCP Board
Enc.