

WISCONSIN STATE
LEGISLATURE
COMMITTEE HEARING
RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

Committee on
Agriculture and
Insurance
(SC-AI)

File Naming Example:

Record of Comm. Proceedings ... RCP

- > 05hr_AC-Ed_RCP_pt01a
- > 05hr_AC-Ed_RCP_pt01b
- > 05hr_AC-Ed_RCP_pt02

COMMITTEE NOTICES ...

> Committee Hearings ... CH (Public Hearing Announcements)

> **

> Committee Reports ... CR

> **

> Executive Sessions ... ES

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> Record of Comm. Proceedings ... RCP

> **

INFORMATION COLLECTED BY COMMITTEE
CLERK FOR AND AGAINST PROPOSAL

> Appointments ... Appt

> **

> Clearinghouse Rules ... CRule

> **05hr_CRule_05-014_SC-AI_pt03**

> Hearing Records ... HR (bills and resolutions)

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> Miscellaneous ... Misc

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1
2 SECTION 1. Chapter ATCP 51 is created to read:

3 **Chapter ATCP 51**

4 **LIVESTOCK FACILITY SITING**

5 NOTE: This chapter is adopted under authority of ss. 93.07(1) and 93.90(2), Stats.
6 This chapter interprets Wisconsin's livestock facility siting law, s. 93.90,
7 Stats. According to the livestock facility siting law, a county, town, city or
8 village ("political subdivision") may not prohibit or disapprove a new or
9 expanded livestock facility of any size unless one of the following applies:

- 10
- 11 • The site is located in a zoning district that is not an agricultural zoning
12 district.
 - 13
 - 14 • The site is located in an agricultural zoning district where the livestock
15 facility is prohibited. A prohibition, if any, must be clearly justified on
16 the basis of public health or safety. The livestock facility siting law
17 limits exclusionary zoning based solely on livestock facility size.
 - 18
 - 19 • The proposed livestock facility violates a valid local ordinance
20 adopted under certain state laws related to shoreland zoning,
21 floodplain zoning, construction site erosion control or stormwater
22 management.
 - 23
 - 24 • The proposed livestock facility violates a local building, electrical or
25 plumbing code that is consistent with the state building, electrical or
26 plumbing code for that type of facility.
 - 27
 - 28 • The proposed livestock facility will have 500 or more "animal units"
29 (or will exceed a lower permit threshold incorporated in a local *zoning*
30 ordinance prior to July 19, 2003), and the proposed facility violates
31 one of the following:
32
 - 33 • *state livestock facility siting standard adopted by the*
34 *department under this chapter.*
 - 35
 - 36 • more stringent local ordinance standard enacted prior to the
37 siting application. The more stringent local standard must be
38 based on reasonable and scientifically defensible findings of
39 fact, adopted by the local jurisdiction, which clearly show that
40 the standard is necessary to protect public health or safety.
 - 41

42 Some, but not all, political subdivisions require local approval of new or
43 expanded livestock facilities. The livestock facility siting law *does not*

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require local approval. But if local approval is required, the political subdivision must grant or deny approval based on this chapter. A political subdivision may not consider other siting criteria, or apply standards that differ from this chapter, except as provided in the livestock facility siting law or this chapter.

Subchapter I

DEFINITIONS AND GENERAL PROVISIONS

ATCP 51.01 Definitions. In this chapter:

(1) "Adjacent livestock facilities" means livestock facilities that are located on land parcels that touch each other, or on land parcels that are separated only by a river, stream, or transportation or utility right-of-way.

(2) "Air quality" means includes both offensive odors and emissions of air contaminants or pollutants that originate from a new or expanded livestock facility.

(2) "Affected neighbor" means, for purposes of the odor score calculation under s. ATCP 51.14, a residence or high-use building located within 2,500 feet of any livestock structure at a proposed livestock facility. "Affected neighbor" does not include a residence or high-use building owned by any of the following:

- (a) The livestock facility operator.
- (b) A person who affirmatively agrees to have the residence or high-use building excluded from the odor score calculation under s. ATCP 51.14.

NOTE: The odor score calculation under s. ATCP 51.14 is based, in part, on the proximity and density of "affected neighbors." See Appendix A, worksheet 2.

(3) "Animal lot" means a feedlot, barnyard or other outdoor facility where livestock are concentrated for feeding or other purposes. "Animal lot" does not include land used solely primarily as a pasture or winter grazing area. Two or more animal lots at

1 the same livestock facility constitute a single animal lot, for purposes of this chapter, if
2 runoff from the animal lots drains to the same treatment area under s. ATCP 51.20(2) or
3 if runoff from the animal lot treatment areas converges or reaches the same surface water
4 within 200 feet of any of those treatment areas.

5 (4) "Animal unit" has the meaning given in s. NR 243.03(3). means a unit of
6 measure used to determine the number animals of a specified type in a particular
7 category, as specified in Appendix A, worksheet 1, which are fed, confined, maintained or
8 stabled in a livestock facility.

9 NOTE: See s. 93.90(1m)(a), Stats., and s. ATCP 51.04. Animal unit equivalents,
10 for different species and types of livestock, are shown in *Appendix A,*
11 *worksheet 1 (animal units).*

12 (5) "BARNY model" means the NRCS "Evaluation System to Rate Feedlot
13 Pollution Potential," ARM-NC-17 (April 1982 version with modifications as of August
14 2005).

15 NOTE: The BARNY model is a commonly used computer model that
16 predicts nutrient runoff from animal lots. Copies of the BARNY
17 model are on file with the department, the secretary of state and the
18 revisor of statutes. An Excel computer spreadsheet version is
19 available at www.datcp.state.wi.us.

20 (6) "Certified agricultural engineering practitioner" means an agricultural
21 engineering practitioner who is certified under s. ATCP 50.46 in the relevant job class
22 with rating under s. ATCP 50.46(5) that authorizes the practitioner to certify every matter
23 that the practitioner certified under this chapter.

24 (7) "Cluster" means any group of one or more livestock structures within a
25 livestock facility.

1 (8) "Complete application for local approval" means an application that contains
2 ~~everything the information~~ required under ss. ATCP 51.30(1) to (3).

3 (9) "Department" means the Wisconsin department of agriculture, trade and
4 consumer protection.

5 (10) "Direct runoff" has the meaning given in s. NR 151.015(7).

6 NOTE: Under s. NR 151.015(7), "direct runoff" means a discharge of a
7 significant amount of pollutants to waters of the state resulting from any of
8 the following practices: 9

- 10 (a) Runoff from a manure storage facility.
11 (b) Runoff from an animal lot that can be predicted to reach surface
12 waters of the state through a defined or channelized flow path or
13 man-made conveyance.
14 (c) Discharge of leachate from a manure pile.
15 (d) Seepage from a manure storage facility.
16 (e) Construction of a manure storage facility in permeable soils, or
17 over fractured bedrock, without a liner designed according to s. NR
18 154.04(3).
19

20 (11) "DNR" means the Wisconsin department of natural resources.

21 (12) "Expanded livestock facility" means the entire portion of the livestock
22 facility that is created by the expansion, after [revisor inserts effective date of this
23 chapter], of an existing livestock facility. "Expanded livestock facility" includes ~~all only~~
24 those livestock structures in the expanded facility, regardless of whether those structures
25 that are new, existing or expanded altered as part of an application filed under ss. ATCP
26 51.30(1) to (3).

27 NOTE: This chapter applies to local approvals of new or expanded livestock
28 facilities that will have 500 or more animal units (or will exceed a lower
29 permit threshold incorporated in a local *zoning* ordinance prior to July 19,
30 2003). See s. ATCP 51.02. ~~Although~~ This chapter does not eoversapply to
31 all livestock structures in an "expanded at a livestock facility;" rather,
32 existing structures that are not expanded are not subject to this rule. are
33 subject to less rigorous standards than new or expanded structures.
34

1 (13) “Expanded livestock structure” means an existing livestock structure that is
2 expanded after [revisor inserts effective date of this chapter] as a part of an application
3 filed under ss. ATCP 51.30(1) to (3).

4 (14) “Expansion” means an increase by 20% or more in the largest number of
5 animal units kept at a livestock facility on at least 90 days in any 12-month period. The
6 acquisition of an existing livestock facility, by the operator of an adjacent livestock
7 facility, does not constitute an “expansion” unless that operator increases by 20% or more
8 the largest number of animal units kept at the combined livestock facilities on at least 90
9 days in any 12-month period.

10 **NOTE:** See ss. 93.90(3)(e), Stats. and ATCP 51.04.

11 (1415) “Fine soil particles” means soil particles that pass through a # 200 soil
12 sieve.

13 **NOTE:** See s. NR 151.002(32).

14 (15) “High-use building” means any of the following buildings:

15 (a) A residential building that has at least 6 distinct dwelling units.

16 (b) A restaurant, hotel, motel or tourist rooming house that holds a permit under s.
17 254.64, Stats.

18 (c) A school classroom.

19 (d) A hospital or licensed care facility.

20 (e) A business or workplace that is normally occupied, during at least 40 hours of
21 each week of the year, by customers or employed workers.

22 (16) “Karst feature” means an area or superficial geologic feature subject to
23 bedrock dissolution so that it is likely to that provides a direct conduit to groundwater.
24

1 "Karst feature" may include caves, enlarged fractures, mine features, exposed bedrock
2 surfaces, sinkholes, springs, seeps or swallets.

3 (17) "Livestock" means domestic animals traditionally used in this state in the
4 production of food, fiber or other animal products. "Livestock" includes cattle, swine,
5 poultry, sheep and goats. "Livestock" does not include equine animals, bison, farm-raised
6 deer, fish, captive game birds, ratites, camelids or mink.

7 (18) "Livestock facility" means ~~an feedlot, dairy farm or other operation where~~
8 livestock are or will be fed, confined, maintained or stabled for a total of 45 days or more
9 in any 12-month period and where livestock structures are or will be located. A
10 "livestock facility" includes all of the land parcels on which the facility is located, but
11 does not include a parcel that is used ~~only primarily~~ for pasture or as a winter grazing
12 area. Two or more livestock facilities constitute a single livestock facility, for purposes of
13 this chapter, if the same person owns or manages all of the facilities and any of the
14 following apply:

15 (a) The facilities are adjacent livestock facilities.

16 NOTE: A mere acquisition of a neighboring livestock facility does not constitute
17 an "expansion" unless more animal units are added to the combined
18 facilities. See sub. (13).

19 (b) Common livestock structures are used to collect or store manure or other
20 waste from the facilities.

21 (c) Manure or other waste from the facilities is applied to the same parcel of land.

22 NOTE: Compare definition of "animal feeding operation" under s. NR 243.03(2).

23 (19) "Livestock structure" means a building or other structure used to house or
24 feed livestock, ~~to confine livestock for milking livestock, to confine livestock for feeding~~
25

1 other than grazing, to store livestock feed, or to collect or store waste generated at a
2 livestock facility. "Livestock structure" includes a barn, milking parlor, feed storage
3 facility, feeding facility, animal lot or waste storage facility. "Livestock structure" does
4 not include a feed storage structure, a pasture or winter grazing area, a fence surrounding
5 a pasture or winter grazing area, a livestock watering facility, or feeding facility, or
6 temporary shelter or windbreak facility in a pasture or winter grazing area, or a machine
7 shed or like facility that is not used ~~for~~ to house or feed livestock.

8 (20) "Local approval" means an approval, required by local ordinance, of a new
9 or expanded livestock facility. "Local approval" includes a license, permit, special
10 exception, conditional use permit or other form of local authorization. "Local approval"
11 does not include any of the following:

12 (a) An approval required by a political subdivision within the scope of its
13 authority under s. 59.692, 59.693, 60.627, 61.351, 61.354, 62.231, 62.234 or 87.30, Stats.

14 NOTE: See s. 93.90(3)(a)3., Stats. The statutes listed in par. (a) pertain to
15 shoreland zoning, floodplain zoning, construction site erosion control and
16 stormwater management.

17
18 (b) An approval required under a local building, electrical or plumbing code, if
19 the standards for approval are consistent with standards established under the state
20 building, electrical or plumbing code for that type of facility.

21 NOTE: See s. 93.90(3)(a)4., Stats.

22
23 (21) "Local ordinance" or "local code" means an ordinance enacted by a political
24 subdivision.

1 (22) "Manure" means excreta from livestock kept at a livestock facility. "Manure"
2 includes livestock bedding, water, soil, hair, feathers, and other debris that becomes
3 intermingled with livestock excreta in normal manure handling operations.

4 ~~(23) "Minor alteration" of a livestock structure means a repair or improvement in~~
5 ~~the construction of an existing livestock structure that does not result in a substantially~~
6 ~~altered livestock structure.~~

7 (24~~23~~) "Navigable waters" has the meaning given in s. 30.01(4m), Stats.

8 ~~(25~~24) "New livestock facility" means a livestock facility that will be used as a
9 livestock facility for the first time, or for the first time in at least 5 years. "New livestock
10 facility" does not include an expanded livestock facility if any portion of that facility has
11 been used as a livestock facility in the preceding 5 years.

12 (25) "New livestock structure" means a livestock structure that will be used for
13 the first time, or for the first time in at least 5 years. "New livestock structure" does not
14 include an expanded livestock structure if any portion of that structure has been used as a
15 livestock structure in the preceding 5 years.

16 **NOTE:** This chapter applies to local approvals of *new or expanded* livestock
17 facilities that will have 500 or more animal units (or will exceed a lower
18 permit threshold incorporated in a local *zoning* ordinance prior to July 19,
19 2003). See s. ATP 51.02.

20 (26) "NRCS" means the natural resource conservation service of the United
21 States department of agriculture.

22 (27) "Operator" means a person who applies for or holds a local approval for a
23 livestock facility, a person who owns, manages or controls the livestock facility, and all
24 legal entities owned, managed or controlled by such persons.
25

1 (28) "Pasture" means land on which livestock graze or otherwise seek feed in a
2 manner that substantially maintains the vegetative cover over all of the grazing or feeding
3 area.

4 (29) "Person" means an individual, corporation, partnership, cooperative, limited
5 liability company, trust or other legal entity.

6 (30) "Political subdivision" means a city, village, town or county.

7 (31) "Populate" means to add animal units for which local approval is required.

8 (32) "Property line" means a line that separates parcels of land owned by different
9 persons unrelated persons or entities. "Unrelated persons or entities" does not include an
10 operator.

11 (33) "Qualified nutrient management planner" means a person qualified under s.
12 ATCP 50.48.

13 (34) "Registered professional engineer" means a professional engineer registered
14 under ch. 443, Stats.

15 (35) "Runoff" means storm water or precipitation including rain, snow, ice melt
16 or similar water that moves on the land surface via sheet or channelized flow.

17 (36) "Site that is susceptible to groundwater contamination" means any of the
18 following:

19 (a) An area within 250 feet of a private well.

20 (b) An area within 1,000 feet of a municipal well.

21 (c) An area within 300 feet upslope or 100 feet downslope of a karst feature.

22 (d) A channel with a cross-sectional area equal to or greater than 3 square feet that
23 flows to a karst feature.

1 (e) An area where the soil depth to groundwater or bedrock is less than 2 feet.

2 (f) An area where none of the following separates the ground surface from
3 groundwater and bedrock:

4 1. A soil layer at least 2 feet deep that has at least 40% fine soil particles.

5 2. A soil layer at least 3 feet deep that has at least 20% fine soil particles.

6 3. A soil layer at least 5 feet deep that has at least 10 % fine soil particles.

7 **NOTE:** See s. NR 151.015(18).

8 ~~(38) "Substantially altered" livestock structure means a livestock structure that~~
9 ~~undergoes a material change in construction or use, including any of the following~~
10 ~~material changes:~~

11 ~~(a) An increase in the capacity of a waste storage facility.~~

12 ~~(b) The addition of a liner to a waste storage facility.~~

13 ~~(c) An increase of more than 20% in the area or capacity of a livestock structure~~
14 ~~used to house, feed or confine livestock, or to store livestock feed.~~

15 ~~(d) An increase of more than 20% in the number of animal units that will be kept~~
16 ~~in a livestock structure on at least 90 days in any 12-month period.~~

17 ~~(3937) "Unconfined manure pile" means a quantity of manure at least 175 cubic~~
18 ~~feet in volume that covers the ground surface to a depth of at least 2 inches, but does not~~
19 ~~include any of the following:~~

20 ~~(a) Manure that is confined within a manure storage facility, livestock housing~~
21 ~~facility or barnyard runoff control facility.~~

22 ~~(b) Manure that is covered or contained in a manner that prevents storm water~~
23 ~~access and direct runoff to surface water or leaching of pollutants to groundwater.~~

1 (4038) "Waste" means manure, milking center waste and other organic waste
2 generated by a livestock facility.

3 (4139) "Waste storage facility" means one or more waste storage structures.
4 "Waste storage facility" includes stationary equipment and piping used to load or unload
5 a waste storage structure if the equipment is specifically designed for that purpose and is
6 an integral part of the facility. "Waste storage facility" does not include equipment used
7 to apply waste to land.

8 (4240) "Waste storage structure" means a waste storage impoundment made by
9 constructing embankments, excavating a pit or dugout, or fabricating a structure. "Waste
10 storage structure" does not include equipment used to apply waste to land. For purposes
11 of ss. ATCP 51.12(2) and 51.14, "waste storage structure" does not include any of the
12 following:

- 13 (a) A structure used to collect and store waste under an animal housing facility.
14 (b) A manure digester consisting of a sealed structure in which manure is
15 subjected to managed biological decomposition.

16 (4341) "Waters of the state" has the meaning given in s. 283.01(20), Stats.

17 (4442) "Winter grazing area" means cropland or pasture where livestock feed on
18 dormant vegetation or crop residue, with or without supplementary feed, during the
19 period October 1 to April 30. "Winter grazing area" does not include any of the
20 following:

- 21 (a) An area, other than a pasture, where livestock are kept during the period from
22 May 1 to September 30.

1 (b) An area which at any time has an average of more than 4 livestock animal
2 units per acre.

3 (c) An area from which livestock have unrestricted access to navigable waters of
4 the state, such that the livestock access prevents adequate vegetative cover on banks
5 adjoining the water.

6 (d) An area in which manure deposited by livestock causes nutrient levels to
7 exceed standards in ATCP 51.16.

8 (4543) "WPDES permit" means either an individual or general Wisconsin
9 pollutant discharge elimination system permit issued by DNR under ch. NR 243.

10 NOTE: The provisions in this chapter that provide for certain exceptions if an
11 operator holds a WPDES permit from DNR apply to all WPDES permits issued
12 by DNR, whether through the statutory application process or through a Green
13 Tier Charter.
14

15 **ATCP 51.02 Scope of this chapter.** (1) This chapter applies to local approvals of
16 the following livestock facilities:

17 (a) A new or expanded livestock facility that will have 500 or more animal units
18 in a particular category as specified in Appendix A, worksheet 1.

19 (b) A new or expanded livestock facility that will exceed a lower size threshold,
20 for a special exception or conditional use permit, if the threshold is expressed in terms of
21 a specific number of animals or animal units in a particular category as specified in
22 Appendix A, worksheet 1 and was incorporated in a local zoning ordinance prior to July
23 19, 2003.

24 **NOTE:** Some, but not all, political subdivisions require local approval of new or
25 expanded livestock facilities. The livestock facility siting law does not
26 require local approval. But if local approval is required, the political
27 subdivision must grant or deny approval based on this chapter. A political

1 subdivision may not consider other siting criteria, or apply standards that
2 differ from this chapter, except as provided in the livestock facility siting
3 law or this chapter.

4
5 A political subdivision may *not* require local approval for new or
6 expanded livestock facilities smaller than 500 animal units, except as
7 specifically authorized by the livestock facility siting law and this chapter.
8 A political subdivision may apply a lower size threshold adopted by
9 ordinance prior to July 19,2003 *if that threshold is expressed as a specific*
10 *number of animals or animal units.* A local threshold expressed in locally-
11 defined "animal units" may meet this test, because it effectively indicates
12 a specific number of animals, even if the local ordinance definition of
13 "animal units" differs from the definition in this chapter. However the
14 local application and approval process must use the "animal units"
15 definition in this chapter.

16
17 Local approvals covered by this chapter normally "run with the land" (per
18 zoning law and other applicable law). They normally continue to apply,
19 despite changes in ownership, as long as subsequent owners do not violate
20 the terms of the local approval. Some ordinances might require a *pro*
21 *forma* permit transfer with each transfer of ownership, but that transfer
22 should not ordinarily limit the scope of approval.

23
24 (2) This chapter does not apply to any of the following:

25 (a) Livestock facilities other than those in sub. (1) that require local approval.

26 (b) An approval required by a political subdivision within the scope of its
27 authority under s. 59.692, 59.693, 60.627, 61.351, 61.354, 62.231, 62.234 or 87.30, Stats.

28 NOTE: See s. 93.90(3)(a)3., Stats. The statutes listed in par. (b) pertain to
29 shoreland zoning, floodplain zoning, construction site erosion control and
30 stormwater management.

31 (c) An approval required under a local building, electrical or plumbing code, if the
32 standards for approval are consistent with standards established under the state building,
33 electrical or plumbing code for that type of facility.

34 NOTE: See s. 93.90(3)(a)4., Stats.

35 **ATCP 51.04 Animal units.** In this chapter, and in every local approval or
36 application for local approval under this chapter, the number of animal units kept or
37
38

1 authorized at a livestock facility means the maximum number of animal units that are or
2 may be kept on a livestock facility at least 90 days in any 12-month period.

3 NOTE: ATCP 51.04 accounts for normal day-to-day and seasonal variations in
4 livestock numbers, as livestock are born, received, moved and marketed.
5 See s. 93.90(3)(f), Stats.
6

7 Under this chapter, an applicant for local approval must specify the
8 number of "animal units" for which the applicant seeks authorization. If
9 the application is approved, the approval authorizes that number of
10 "animal units." The authorized number is the maximum number of
11 "animal units" that may be kept on 90 or more days in any 12-month
12 period. A livestock operator may not exceed that authorized number
13 without further local approval.
14

15 This chapter only applies to new or expanded livestock facilities that will
16 exceed the animal unit threshold specified in ATCP 51.02 in only specific
17 category, as indicated in Appendix A, worksheet I. This prohibits
18 aggregation of animal units across different species or categories.
19

20 **ATCP 51.06 Local approval of existing livestock facilities. (1) GENERAL.**

21 Except as provided in sub. (2), a local ordinance may not require local approval under
22 this chapter for any of the following:

23 (a) A livestock facility that existed before [revisor inserts effective date of this
24 chapter] or before the effective date of the local approval requirement.

25 (b) A livestock facility that the political subdivision has already approved. A prior
26 approval for the construction of a livestock facility implies approval for the maximum
27 number of animal units that the approved livestock facility was reasonably designed to
28 house, except as otherwise clearly provided in the approval. Prior approval of a single
29 livestock structure, such as a waste storage structure, does not constitute prior approval of
30 an entire livestock facility.

31 NOTE: For example, if a political subdivision has already approved construction
32 of a livestock facility that was reasonably designed to house up to 800
33 "animal units," that approval authorizes the operator to keep up to 800

1 "animal units" at that facility (even if the scope of approval is not
2 explicitly stated in terms of "animal units").

3
4 (2) EXPANSIONS. A local ordinance may require local approval under this
5 chapter for the expansion of a pre-existing or previously approved livestock facility under
6 sub. (1) if the number of animal units kept at the expanded livestock facility will exceed
7 all of the following:

8 (a) The applicable size threshold for local approval under s. ATCP 51.02(1).

9 (b) The maximum number previously approved or, if no maximum number was
10 previously approved, a number that is 20% higher than the number kept on [revisor
11 inserts effective date of this chapter] or on the effective date of the approval
12 requirement, whichever date is later.

13 NOTE: Consider the following examples:

14
15 **Example 1:** Suppose that a local ordinance enacted after [revisor inserts
16 effective date of this chapter] requires local approval for livestock
17 facilities with 500 or more "animal units." Local approval is not required
18 for a livestock facility that already has 600 "animal units" on the local
19 ordinance effective date, unless the facility expands to more than 720
20 "animal units." The number of "animal units" kept on the ordinance
21 effective date means the largest number kept on at least 90 days in the 12
22 months prior to the ordinance effective date (*see* s. 93.90(3)(e), Stats.).

23
24 **Example 2:** Suppose that a local ordinance enacted prior to July 19, 200
25 requires local approval of livestock facilities with 400 or more "animal
26 units." An expansion from 200 "animal units" (existing facility) to 450
27 "animal units" (expanded facility) will require local approval, unless the
28 political subdivision has already given its approval. If the political
29 subdivision has already approved construction of a livestock facility that is
30 designed to house up to 450 "animal units," the operator does not need
31 further local approval unless the operator proposes to exceed 450 "animal
32 units."

33
34 **Subchapter II**

35 **LIVESTOCK FACILITY SITING STANDARDS**

1 **ATCP 51.10 Livestock facility siting standards; general. (1) STATE**
2 **STANDARDS APPLY.** Except as provided in sub. (2) or (3), a political subdivision shall
3 grant or deny local approvals covered by this chapter based ~~on~~ by applying only the
4 standards contained in this subchapter.

5 **(2) STATE STANDARDS INCORPORATED IN LOCAL ORDINANCE.** Beginning on
6 [revisor inserts date that is 6 months after the effective date of this chapter], a
7 political subdivision may not deny a local approval covered by this chapter unless the the
8 political subdivision incorporates by local ordinance the standards in this subchapter and
9 the application requirements in subch. III. A local ordinance may incorporate the
10 standards and application requirements by reference, without reproducing them in full.

11 NOTE: The livestock facility siting law, s. 93.90, Stats., limits the reasons for
12 which a political subdivision may deny local approval. For the first 6
13 months after the effective date of this chapter, from [revisor inserts
14 **effective date of this chapter**] to [revisor inserts date that is 6 months
15 **after the effective date of this chapter**], a political subdivision may deny
16 local approval based on standards in this chapter without incorporating
17 those standards by local ordinance. See sub. (1). But sub. (2) applies
18 beginning on [revisor inserts date that is 6 months after the effective
19 **date of this chapter**].

20 **(3) MORE STRINGENT LOCAL STANDARDS.** A political subdivision may not apply
21 ~~local~~ standards that are more stringent than the standards in this subchapter unless all of
22 the following apply:

23 (a) The political subdivision is authorized to adopt the ~~local~~ more stringent
24 standards under other applicable law.

25 (b) The political subdivision enacted the more stringent standards by local
26 ordinance, before the livestock facility operator filed the application for local approval.
27

1 (c) The political subdivision enacted the more stringent standards based on
2 reasonable and scientifically defensible findings of fact adopted by the political
3 subdivision's governing authority.

4 (d) The findings of fact under par. (c) clearly show that the more stringent
5 standards are needed to protect public health or safety.

6 NOTE: See s. 93.90(3)(ar), Stats.

7 (4) ORDINANCE PROVISIONS FILED WITH DEPARTMENT. Within 30 days after a
8 political subdivision enacts an ordinance provision under sub. (2) or (3), the political
9 subdivision shall file a copy of the ordinance provision with the department. Failure to
10 file the ordinance provision with the department does not invalidate the ordinance
11 provision. The political subdivision shall file the ordinance provision, by mail, fax or e-
12 mail, at the following applicable address:

13 Wisconsin Department of Agriculture, Trade and Consumer Protection
14 Agricultural Resource Management Division
15 Bureau of Land and Water Resources
16 P.O. Box 8911
17 Madison, WI 53708-8911
18 Fax: (608) 224-4615
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20 **ATCP 51.12 Livestock structures; location on property.**

22 (1) PROPERTY LINE AND ROAD SETBACKS; GENERAL. New or expanded ~~L~~livestock
23 structures shall comply with local ordinance requirements related to setbacks from
24 property lines and public roads, except that no local setback requirement may do any of
25 the following:

1 (a) Require a livestock structure to be set back more than 100 feet from any
2 property line, or more than 100 feet from any public road right-of-way, if the livestock
3 facility will have fewer than 1,000 animal units.

4 (b) Require a livestock structure to be set back more than 200 feet from any
5 property line, or more than 150 feet from any public road right-of-way, if the livestock
6 facility will have 1,000 animal units or more.

7 (c) Prevent the use of a livestock structure that was located within the setback area
8 prior to the effective date of the setback requirement.

9 (d) Prevent the expansion of a livestock structure that was located within the
10 setback area prior to the effective date of the setback requirement, other than an
11 expansion toward the property line or public road to which the local setback applies.

12 NOTE: Many local jurisdictions have established basic property line and road
13 setback requirements by ordinance. Setbacks vary depending on local
14 circumstances, and often reflect years of local experience. Subsection (1)
15 honors local setback requirements, provided that the setbacks do not
16 exceed the limits specified in sub. (1).
17

18 ~~(2) MANURE STORAGE STRUCTURE; SETBACK. A waste storage structure may not
19 be located within 350 feet of any property line, or within 350 feet of the nearest point of
20 any public road right-of-way, unless one of the following applies:~~

21 ~~(a) A local ordinance specifies a shorter setback that is specific to waste storage
22 facilities or waste storage structures:~~

23 ~~(b) The waste storage structure existed prior to [revisor inserts effective date of
24 this chapter]. This paragraph does not authorize an expansion, toward a property line or
25 public road right-of-way, of a waste storage structure that is located within 350 feet of
26 that property line or public road right-of-way.~~

1 | NOTE: See definition of “waste storage structure” in s. ATCP 51.01(42).

2 | (32) NAVIGABLE WATERS AND WETLANDS. A livestock facility shall comply with
3 | an applicable shoreland or wetland zoning ordinance that is enacted within the scope of
4 | authority granted under s. 59.692, 61.351 or 62.231, Stats.

5 | NOTE: Essentially all navigable waters are now protected by county or local
6 | ordinances that require building setbacks of 75 feet or more (depending on
7 | the ordinance). Zoning restrictions, if any, typically apply to *new or*
8 | *enlarged structures*. A zoning ordinance applies for purposes of sub. (3) if
9 | it is enacted within the scope of statutory authority under s. 59.692, 61.351
10 | or 62.231, Stats., even if it is also enacted under other authority.

11 |
12 | (43) FLOODPLAIN. A livestock facility shall comply with an applicable floodplain
13 | zoning ordinance that is enacted within the scope of statutory authority under s. 87.30,
14 | Stats.

15 | NOTE: County or local zoning ordinances currently apply to many, but not all,
16 | waterways (not all waterways have mapped floodplains). Zoning
17 | restrictions, if any, typically apply to *new or enlarged structures*. A zoning
18 | ordinance applies for purposes of sub. (4) if it is enacted within the scope
19 | of statutory authority under s. 87.30, Stats., even if it is also enacted under
20 | other authority. 8

21 |
22 | (54) WELLS. (a) Wells in a livestock facility shall comply with chs. NR 811 and
23 | 812.

24 | (b) Except as provided in par. (c), new or ~~substantially altered~~ expanded livestock
25 | structures shall be separated from existing wells by the distances required in chs. NR 811
26 | and 812, regardless of whether the livestock facility operator owns the land on which the
27 | wells are located.

28 | (c) Paragraph (b) does not prohibit the alteration of a livestock structure that
29 | existed on [*revisor inserts effective date of this chapter*], unless that alteration reduces
30 | the distance between the livestock structure and an existing well.

1 NOTE: DNR rules under chs. NR 811 and 812 spell out well construction and
2 well location standards to protect water supplies. Violation of well setback
3 requirements in ch. NR 811 or 812 may prevent use of a well. DNR may
4 grant appropriate variances, as provided in chs. NR 811 and 812.
5

6 (65) PRESUMPTION. For purposes of local approval, a livestock facility is
7 presumed to comply with this section if the application for local approval complies with
8 s. ATCP 51.30.

9 NOTE: Under s. ATCP 51.30, an application must be complete, credible and
10 internally consistent. The application must include an area map, a site
11 map, and a certification that the livestock facility complies with this
12 section (*see Appendix A*). A local approval is conditioned upon
13 compliance in fact (*see s. ATCP 51.34(4)*). The presumption in sub. (6)
14 may be rebutted by clear and convincing evidence in the record (*see s.*
15 *ATCP 51.34 and 51.36*).
16
17

18 **ATCP 51.14 Air quality.** An operator of a new or expanded livestock facility of
19 more than 500 animal units subject to this rule shall comply with the best management
20 practices designed to manage air quality as specified in *Appendix A, worksheet 2*. These
21 air quality best management practices apply only to new or expanded livestock structures
22 located at a new or expanded livestock facility. An operator may satisfy the air quality
23 requirements under this chapter by complying with an air quality best management
24 practice that is not specified in *Appendix A, worksheet 2* if the department pre-approves
25 that practice. The operator shall claim the pre-approved practice according to the
26 procedure specified in *Appendix A, worksheet 2*.

27 **Odor management.** (1) ODOR STANDARDS. Except as provided in subs. (2) to (4),
28 a livestock facility shall have a predicted odor of not more than 350, and an odor score of
29 at least 500. The operator shall calculate the predicted odor and odor score according to
30 *Appendix A, worksheet 2*, or by using the equivalent spreadsheet provided on the

1 department's website. An application for local approval shall include *worksheet 2* or the
2 spreadsheet output.

3 NOTE: The spreadsheet equivalent of *Appendix A, worksheet 2* is available on the
4 department's website at <http://www.datep.state.wi.us/index>.

5
6 *Predicted odor* considers odor generation and odor management practices,
7 but does not consider the proximity and density of "affected neighbors."
8 Total *odor score* considers odor generation, odor management practices,
9 and the proximity and density of "affected neighbors." See *Appendix A,*
10 *worksheet 2.*

11
12 *Predicted odor* and total *odor score* are predictive estimates. The
13 standards in sub. (1) apply only for purposes of local livestock facility
14 siting decisions under this chapter. Failure to comply with a standard in
15 sub. (1) does not constitute evidence of a public or private nuisance,
16 negligence, or a taking of property.

17
18 The department will work to coordinate odor and air emissions field
19 research with DNR, the Wisconsin agricultural stewardship initiative
20 (WASI), the University of Wisconsin (UW) "pioneer farm," Wisconsin
21 "discovery farms," and the UW college of agricultural and life sciences.
22 The department will consider research results when it reviews this chapter
23 at least once every 4 years (see s. 93.90(2)(c), Stats.). As part of its review,
24 the department will consult with an advisory committee that includes
25 representatives of livestock producers, local government and
26 environmental interests.

27
28 (2) EXEMPTIONS. The odor standards in sub. (1) do not apply to any of the
29 following:

- 30 (a) A new livestock facility with fewer than 500 animal units.
31 (b) An expanded livestock facility with fewer than 1,000 animal units.
32 (c) A livestock facility in which all livestock structures will be located at least
33 2,500 ft. from the nearest affected neighbor.

34 NOTE: "Affected neighbors" (ATCP 51.01(2)) are residences or "high-use
35 buildings" (ATCP 51.01(15)) other than those owned by the livestock
36 operator or by persons who agree to be excluded from odor score
37 calculations under sub. (1).
38

1 ~~(3) CLUSTERS. If all of the livestock structures in a livestock facility are divided~~
2 ~~among 2 or more clusters, such that no cluster is located closer than 750 feet to any other~~
3 ~~cluster, an operator may choose to calculate an odor score under sub. (1) for each cluster~~
4 ~~rather than for the entire livestock facility. Each cluster shall comply with the odor~~
5 ~~standards in sub. (1).~~

6 NOTE: For example, a dairy operator can take advantage of sub. (3) if a proposed
7 dairy facility includes a milking operation (cluster 1) and a heifer facility
8 (cluster 2) located 800 feet from each other.

9
10 ~~(4) LOCAL DISCRETIONARY CREDIT. (a) Notwithstanding sub. (1), a~~
11 ~~political subdivision may in its discretion do any of the following:~~

12 1. ~~Approve a livestock facility with a predicted odor of more than 350, provided~~
13 ~~that the predicted odor does not exceed 380.~~

14 2. ~~Approve a livestock facility with an odor score of less than 500, provided that~~
15 ~~the odor score is not less than 470.~~

16 ~~(b) If a political subdivision exercises its discretionary authority under par. (a), its~~
17 ~~written decision under s. ATCP 51.34(3) shall state the reason or reasons for that exercise~~
18 ~~of discretionary authority.~~

19 ~~(c) The livestock facility siting review board may not review any of the following~~
20 ~~under s. 93.90(5), Stats:~~

21 1. ~~A political subdivision's exercise, or refusal to exercise, discretionary authority~~
22 ~~under par. (a).~~

23 2. ~~The adequacy of the political subdivision's stated reasons under par. (b) for~~
24 ~~exercising discretionary authority under par. (a).~~

1 NOTE: A political subdivision must approve a livestock facility that meets the
2 odor standards under sub. (1), assuming that the facility meets other
3 livestock facility siting standards under this chapter (see ATCP 51.34(1)).
4

5 A political subdivision may not approve a livestock facility that fails to
6 meet the odor standards under sub. (1), except that the political
7 subdivision may exercise its discretionary authority under sub. (4)(a) in
8 favor of an applicant if it chooses to do so. For example, a political
9 subdivision may exercise its discretionary authority under sub. (4)(a)
10 based on factors such as community tolerance, the applicant's near
11 attainment of a standard, innovative odor control practices, local land use
12 plans, or the applicant's past reputation for good management and
13 community relations.
14

15 (5) CREDITS FOR ODOR MANAGEMENT PRACTICES. In the calculation of predicted
16 odor under sub. (1), an operator may claim credit for all of the following:

17 (a) Odor management practices, identified in Appendix A, worksheet 2, which the
18 operator agrees to implement. For each odor management practice, the operator may
19 claim a credit specified in Appendix A, worksheet 2.

20 (b) An odor management practice not identified in Appendix A, worksheet 2 if the
21 department pre-approves a credit for that practice. The operator shall claim the pre-
22 approved credit according to the procedure specified in Appendix A, worksheet 2.

23 (c) An operator seeking department approval under par. (b) shall submit all of the
24 following to the department in writing:

25 1. A clear description of the odor management practice for which the operator
26 seeks an approved credit.

27 2. Scientific evidence to substantiate the efficacy of the odor management practice
28 under relevant conditions.

29 (d) The department may approve a credit for an odor management practice under
30 par. (b) if, in the department's opinion, there is adequate scientific evidence to show that

1 under relevant conditions the practice will result in odor reduction commensurate with
2 the approved credit. The department shall grant or deny the request within 90 days after
3 the department receives the request.

4 NOTE: An odor management practice credit under sub. (5) is expressed, in the
5 predicted odor calculation in *Appendix A, worksheet 2*, as a multiplier
6 value (the lower the multiplier, the greater the benefit to the livestock
7 operator).

8
9 (6) FUTURE REFERENCE POINTS. Whenever an operator seeks local approval for the
10 expansion of a livestock facility previously approved under this chapter, the operator may
11 calculate an odor score under sub. (1) by reference to the same affected neighbors
12 referenced in the odor score calculation for the prior local approval. The operator is not
13 required to include, in the new odor score calculation, an affected neighbor that was not
14 referenced in the odor score calculation for the prior local approval.

15 NOTE: The odor score calculation in *Appendix A, worksheet 2* is partly based on
16 the proximity and density of "affected neighbors" (see ATCP 51.01(2)).
17 Subsection (6) gives an operator some protection against the effects of
18 encroaching development, without regulating that development directly.

19
20 (7) PRESUMPTION. For purposes of local approval, a livestock facility is presumed
21 to comply with this section if the application for local approval complies with s. ATCP
22 51.30.

23 NOTE: Under s. ATCP 51.30, an application must be complete, credible and
24 internally consistent. The application must include, among other things, a
25 worksheet (or equivalent spreadsheet output) that shows compliance with
26 this section. See *Appendix A, worksheet 2*. Local approval is conditioned
27 upon compliance in fact (see s. ATCP 51.34(4)). The presumption in sub.
28 (7) may be rebutted by clear and convincing evidence in the record (see s.
29 ATCP 51.34 and 51.36).

30
31 **ATCP 51.16 Nutrient management. (1) NUTRIENT MANAGEMENT STANDARD. (a)**

32 Except as provided in par. (c):

1 | 1. Land applications of waste from a new or expanded livestock facility approved
2 | under this chapter shall comply with NRCS nutrient management technical standard 590
3 | (November, 2005) except for sections V.A.2.b(2), V.D, V.E and VI.

4 | NOTE: NRCS nutrient management technical standard 590 (November, 2005) is
5 | reprinted in *Appendix B*. The following sections of the reprinted standard
6 | do not apply for purposes of this chapter:

7 |
8 | V.A.2.b(2), related to additional requirements imposed by local
9 | conservation plans.

10 | V.D, related to additional criteria to minimize N and particulate air
11 | emissions.

12 | V.E, related to additional criteria to protect the physical, chemical
13 | and biological condition of the soil.

14 | VI, related to discretionary considerations.

15 |
16 | 2. A nutrient management checklist, shown in *Appendix A, worksheet 3, part C*,
17 | shall accompany an application for local approval. A qualified nutrient management
18 | planner, ~~other than the livestock operator,~~ shall answer each checklist question. The
19 | planner shall have reasonable documentation to substantiate each answer, but neither the
20 | ~~planner nor the operator is~~ not required to submit that documentation with the checklist.

21 | NOTE: A livestock operator is not required to submit a complete nutrient
22 | management plan with an application for local approval. Both the operator
23 | and the qualified nutrient management planner must sign the nutrient
24 | management checklist. *See Appendix A, worksheet 3, part C.*

25 |
26 | (b) Within 15 days of receipt of an application, A political subdivision may ask a
27 | nutrient management planner to submit the documentation that the planner relied upon to
28 | substantiate the planner's answer to one or more questions on the nutrient management
29 | checklist under par. (a)2. The political subdivision may deny local approval if the
30 | ~~planner's documentation does not reasonably substantiate the answer.~~

31 | (c) Paragraph (a) does not apply to a livestock facility with fewer than 500 animal
32 | units unless the operator's ratio of acres, either owned, leased or available pursuant to

1 | agreement, to animal units, calculated according to *Appendix A, worksheet 3, part B*, is
2 | less than 1.5 for dairy and beef cattle, 1.0 for swine, 2.0 for sheep and goats, and 2.5 for
3 | chickens, and ducks, and 5.5 for turkeys.

4 | NOTE: *A waste and nutrient management worksheet (Appendix A, worksheet 3)*
5 | must accompany every application for local approval. Among other
6 | things, the worksheet shows the operator's ratio of acres to animal units
7 | under par. (c).

8 |
9 | Paragraph (c) is an exemption, not a requirement, for livestock facilities.
10 | If a livestock facility qualifies for exemption under par. (c), the operator is
11 | *not* required to submit a *nutrient management checklist* under par. (a). The
12 | ratios stated in par. (c) are based on the phosphorus content of manure
13 | from the respective livestock species.

14 |
15 | (2) PRESUMPTION. For purposes of local approval, an operator is presumed to
16 | comply with sub. (1) if the application for local approval complies with s. ATCP 51.30.

17 | NOTE: Under s. ATCP 51.30, an application must be complete, ~~credible and~~
18 | ~~internally consistent~~. The application must include, among other things, a
19 | *waste and nutrient management worksheet (Appendix A, worksheet 3)*.
20 | The completed worksheet must include all of the following:

- 21 |
22 | • The types and amounts of manure and other organic waste that the
23 | facility will generate when fully populated. 5
24 | • The types and amounts of waste to be stored, the waste storage
25 | facilities and methods to be used, the duration of waste storage, and
26 | waste storage capacity.
27 | • The final disposition of waste by landspreading or other means. • The
28 | acreage currently available for landspreading.
29 | • A map showing where waste will be applied to land.
30 | • A *nutrient management checklist* if required under sub. (1).

31 |
32 | Local approval is conditioned upon compliance in fact (*see* s. ATCP
33 | 51.34(4)). The presumption in sub. (2) may be rebutted by clear and
34 | convincing evidence in the record (*see* s. ATCP 51.34 and 51.36).

35 |
36 | (3) NUTRIENT MANAGEMENT UPDATES. An operator may update nutrient
37 | management plans and practices as necessary, consistent with sub. (1)(a)1.

1 NOTE: This subsection does not require an operator to file updates with a
2 political subdivision, but neither does it limit local authority to request
3 updates or monitor compliance with sub. (1)(a)1. *See s. ATCP 51.34(4).*
4

5 (4) EXEMPTION. This section does not apply if all of the following apply:

6 (a) The operator holds a WPDES permit for the same proposed livestock facility,
7 and that permit is based on housing for a number of animal units that is equal to or
8 greater than the number for which the operator seeks local approval.

9 (b) The operator submits a copy of the WPDES permit with the operator's
10 application for local approval.

11 **ATCP 51.18 Waste storage facilities. (1) DESIGN, CONSTRUCTION AND**
12 **MAINTENANCE; GENERAL.** All new or expanded waste storage facilities ~~for that~~ are part of
13 a new or expanded livestock facility shall be designed, constructed and maintained to
14 minimize the risk of structural failure, and to minimize the potential for waste discharge
15 to surface water or groundwater. ~~A~~ Such waste storage ~~facility~~ facilities may not lack
16 structural integrity or have significant leakage. An unlined earthen waste storage facility
17 may not be located on a site that is susceptible to groundwater contamination.

18 NOTE: A "site that is susceptible to groundwater contamination" is defined in s.
19 ATCP 51.01(37).
20

21 (2) EXISTING FACILITIES. For purposes of local approval, an existing waste storage
22 facility is presumed to comply with sub. (1) if a registered professional engineer or
23 certified agricultural engineering practitioner certifies one of the following in the
24 application for local approval:

25 (a) The facility is constructed of concrete or steel or both, was constructed within
26 the last 10 years according to then-existing NRCS standards, and shows no apparent signs
27 of structural failure or significant leakage.

1 ~~(b) The facility was constructed within the last 3 years according to then-existing~~
2 ~~NRCS standards, and shows no apparent signs of structural failure or significant leakage.~~

3 ~~(c) The facility was constructed according to NRCS standards that existed at the~~
4 ~~time of construction, is in good condition and repair, and shows no apparent signs of~~
5 ~~structural failure or significant leakage.~~

6 ~~(d) The facility is in good condition and repair, shows no apparent signs of~~
7 ~~structural failure or significant leakage, and is located on a site at which the soils and~~
8 ~~separation distances to groundwater comply with NRCS technical guide manure storage~~
9 ~~facility standard 313, table 1 (November, 2004).~~

10 ~~(e) The facility is in good condition and repair, shows no apparent signs of~~
11 ~~structural failure or significant leakage, is located entirely above ground, and is located~~
12 ~~on a site at which the soils comply with NRCS technical guide manure storage facility~~
13 ~~standard 313, table 5 (November, 2004).~~

14 NOTE: According to s. ATCP 51.30, an application for local approval must
15 include a certification under sub. (2) for each existing waste storage
16 facility. See Appendix A, worksheet 4 (waste storage facilities).

17
18 ~~(32) NEW OR SUBSTANTIALLY ALTERED~~EXPANDED FACILITIES. For purposes of
19 local approval, a new or substantially altered~~expanded~~ waste storage facility that is part
20 of a new or expanded livestock facility is presumed to comply with sub. (1) if all of the
21 following apply:

22 (a) The application for local approval includes design specifications for the new
23 or expanded waste storage facility.

1 (b) A registered professional engineer or certified agricultural engineering
2 practitioner certifies that the design specifications substantially comply with all of the
3 following:

4 1. NRCS technical guide manure storage facility standard 313 (November, 2004).

5 2. NRCS technical guide manure transfer standard 634 (November, 2004).

6 NOTE: According to s. ATCP 51.30, an application for local approval must
7 include the design specifications and certification to which sub. (3) refers.
8 See Appendix A, worksheet 4 (waste storage facilities).

9
10 (43) CLOSED FACILITIES. If a waste storage facility is closed as part of the
11 construction or expansion of a livestock facility, the closure shall substantially comply
12 with NRCS technical guide closure of waste impoundments standard 360 (June 2001). A
13 closure is presumed to comply with this subsection, for purposes of local approval, if the
14 application for local approval includes the closure plan and certification required under s.
15 ATCP 51.30.

16 NOTE: According to s. ATCP 51.30, an application for local approval must
17 identify any waste storage facilities to be closed. The application must
18 include a closure plan for each identified facility. A registered professional
19 engineer or certified agricultural engineering practitioner must certify that
20 the closure plan complies with NRCS technical guide closure of waste
21 impoundments standard 360 (June 2001). See Appendix A, worksheet 4
22 (waste storage facilities).

23
24 Under s. NR 151.05(3) and (4), an operator must normally close a manure
25 storage facility if the facility has not been used for 24 months, or poses an
26 imminent threat to public health, aquatic life or groundwater.

27
28 If a waste storage facility is abandoned or not properly closed, a political
29 subdivision may seek redress under s. 66.0627 or 254.59, Stats., as
30 appropriate.

31
32 (54) STORAGE CAPACITY. (a) ~~The waste storage capacity of a livestock facility, not~~
33 ~~counting any excess storage capacity required for open waste storage facilities under par.~~

1 (b), shall be adequate for reasonably foreseeable storage needs based on the operator's
2 waste and nutrient management strategy under s. ATCP 51.16.

3 NOTE: Section ATCP 51.20(5) prohibits overflow of waste storage facilities. See
4 also s. NR 151.08(2) and ATCP 50.04(1).

5
6 (b) An operator shall at all times maintain, in every new or expanded open waste
7 storage facility, unused storage capacity equal to the greater of the following volumes:

- 8 1. One foot multiplied by the top area of the storage facility.
- 9 2. The volume of rain that would accumulate in the manure storage facility from a
10 25- year 24-hour storm.

11 NOTE: The required excess storage capacity in par. (b), often called "freeboard
12 storage," provides a safety factor to prevent manure storage overflow in
13 the event of a major rain event.

14
15 (c) The waste storage capacity of a new or expanded waste storage facility that is
16 part of a new or expanded livestock facility is presumed to comply with this subsection,
17 for purposes of a local approval, if the application for local approval complies with s.
18 ATCP 51.30.

19 NOTE: Under s. ATCP 51.30, an application must be complete, credible and
20 internally consistent. An application must include a *waste and nutrient*
21 *management worksheet (worksheet 3, signed by the operator and a*
22 *qualified nutrient management planner)* and a *waste storage facility*
23 *worksheet (worksheet 4, signed by a registered professional engineer or*
24 *certified agricultural engineering practitioner)*. *Worksheet 3* must identify
25 waste storage needs, based on the operator's landspreading and waste
26 disposal strategy. *Worksheet 3* must also show waste storage *capacity*,
27 consistent with *worksheet 4*. Capacity must be adequate for reasonably
28 foreseeable needs.

29
30 (65) DEVIATION FROM DESIGN SPECIFICATIONS. Local approval of a new or
31 expanded livestock facility does not authorize an operator to populate that approved
32 livestock facility if the construction, alteration or closure of a new or expanded waste

1 storage facility deviates materially, and without express authorization from the political
2 subdivision, from the design specifications or closure plan included in the application for
3 local approval.

4 NOTE: A political subdivision may inspect waste storage facilities to verify that
5 they are constructed according to specifications included in the application
6 for local approval. This section *does not require or prohibit* local
7 inspection. A deviation under sub. (6) does not invalidate a local approval,
8 but does prevent the livestock operator from populating the approved
9 livestock facility until the deviation is rectified or approved.

10
11 This chapter does not limit the application of local waste storage
12 ordinances, except in connection with the approval of a new or expanded
13 livestock facility. For example, if a livestock operator constructs a new
14 waste storage structure without adding "animal units" for which local
15 approval is required, the construction must comply with the local waste
16 storage ordinance if any.

17
18 But if a livestock operator proposes to add "animal units" and construct a
19 new waste storage structure, to create an "expanded livestock facility" for
20 which local approval is required, the waste storage standards in this
21 chapter are controlling. A political subdivision may not disapprove the
22 expansion, except for reasons provided under this chapter.

23
24 (7) EXEMPTION. This section does not apply if all of the following apply:

25 (a) The operator holds a WPDES permit for the same proposed livestock facility;
26 and that permit is based on housing for a number of animal units that is equal to or
27 greater than the number for which the operator seeks local approval.

28 (b) The operator includes a copy of the WPDES permit with the operator's
29 application for local approval.

30 **ATCP 51.20 Runoff management. (1) NEW OR SUBSTANTIALLY**
31 ~~ALTERED~~EXPANDED ANIMAL LOTS. New or substantially altered expanded animal lots shall
32 comply with *NRCS technical guide wastewater treatment strip standard 635 (January*
33 *2002)*.

1 (2) EXISTING ANIMAL LOTS. (a) The predicted average annual phosphorus runoff
2 from each existing animal lot to the end of the runoff treatment area, as determined by the
3 *BARNY* model, shall be less than the following applicable amount: 60

4 1. Fifteen pounds if no part of the animal lot is located within 1,000 feet of a
5 navigable lake or 300 feet of a navigable stream.

6 2. Five pounds if any part of the animal lot is located within 1,000 feet of a
7 navigable lake or 300 feet of a navigable stream.

8 NOTE: The *BARNY* model is a computer model that predicts nutrient runoff from
9 animal lots. Copies of the *BARNY* model are on file with the department,
10 the secretary of state and the revisor of statutes. An Excel spreadsheet
11 version may be obtained from the NRCS Wisconsin website (engineering
12 directory). 9

13
14 (b) Runoff from an animal lot may not discharge to any direct conduit to
15 groundwater.

16 NOTE: See NR 151.08(4) and ATCP 50.04(1). A direct conduit to groundwater
17 may include, for example, a sinkhole.

18
19 (32) FEED STORAGE. (a) All new or expanded feed storage structure shall be
20 managed to prevent any significant discharge of leachate or polluted runoff from stored
21 feed to waters of the state.

22 (b) If an existing paved area may be used, without substantial alteration, to store
23 or handle feed with a 70% or higher moisture content:

24 1. Surface water runoff shall be diverted from entering the paved area.

25 2. Surface discharge of leachate from stored feed shall be collected before it
26 leaves the paved area, if the paved area covers more than one acre. Collected leachate
27 shall be stored and disposed of in a manner that prevents discharge to waters of the state.

1 | **NOTE:** Feed leachate is a potentially serious water pollutant. Paved areas include
2 | paved feed storage bunkers and handling areas. Collected leachate may,
3 | for example, be transferred to waste storage and applied to land at
4 | agronomic rates.

5 |
6 | (c) A new or substantially altered expanded feed storage structure, including any
7 | building, bunker, silo or paved area used for feed storage or handling, shall be designed,
8 | constructed and maintained to the following standards if it may used to store or handle
9 | feed with a 70% or higher moisture content:

10 | 1. Surface water runoff shall be diverted from entering the feed storage structure.

11 | 2. Surface discharge of leachate shall be collected before it leaves the feed
12 | storage structure.

13 | 3. If the top of the feed storage structure floor is not asphalt, concrete or other
14 | impervious surface, then the floor shall be at least 3 vertical feet from groundwater and
15 | bedrock.

16 | 4. If the feed storage structure covers more than 10,000 square feet, it shall have
17 | an effective subsurface system to collect leachate that may leak through the structure
18 | floor. The system shall consist of drainfill material, a tile drainage network, and an
19 | effective sub-liner as specified in *Appendix A, worksheet 5, section II.C.*

20 | 5. Collected leachate shall be stored and disposed of in a manner that prevents
21 | discharge to surface water or groundwater.

22 | **NOTE:** Collected leachate may, for example, be transferred to waste storage and
23 | applied to land at agronomic rates.

24 |
25 | (43) **CLEAN WATER DIVERSION.** Runoff from a new or expanded livestock facility
26 | shall be diverted from contact with animal lots, waste storage facilities, paved feed

1 storage areas and manure piles within 1,000 feet of a navigable lake or 300 feet of a
2 navigable stream.

3 NOTE: See NR 151.06 and ATCP 50.04(1). Runoff may be diverted by means of
4 earthen diversions, curbs, gutters, waterways, drains or other practices, as
5 appropriate.

6
7 (54) OVERFLOW OF WASTE STORAGE FACILITIES. A new or expanded livestock
8 facility shall be designed, constructed and maintained to prevent overflow of waste
9 storage facilities.

10 NOTE: Under s. ATCP 51.18(5), waste storage capacity must be adequate to meet
11 reasonably foreseeable storage needs, based on the operator's waste and
12 nutrient management strategy under s. ATCP 51.16. See also NR
13 151.08(2) and ATCP 50.04(1).

14
15 (65) UNCONFINED MANURE PILES. A new or expanded livestock facility may not
16 have any unconfined manure piles within 1,000 feet of a navigable lake or 300 feet of a
17 navigable stream.

18 NOTE: See NR 151.08(3) and ATCP 50.04(1).

19
20 (76) LIVESTOCK ACCESS TO SURFACE WATERS OF THE STATE. A new or expanded
21 livestock facility shall be designed, constructed and maintained to prevent unrestricted
22 livestock access to surface waters of the state, if that access will prevent adequate
23 vegetative cover on banks adjoining the water. This subsection does not prohibit a
24 properly designed, installed and maintained livestock crossing or machinery crossing.

25 NOTE: See NR 151.08(5) and ATCP 50.04(1).

26
27 (87) PRESUMPTION. For purposes of local approval, a new or expanded livestock
28 facility is presumed to comply with this section if the application for local approval
29 complies with s. ATCP 51.30.

1 NOTE: Under s. ATCP 51.30, an application must be complete, credible and
2 internally consistent. An applicant must submit a runoff management
3 worksheet signed by the applicant and a registered professional engineer
4 or certified agricultural engineering practitioner (*see Appendix A,*
5 *worksheet 5*). The *worksheet* shows presumptive compliance with this
6 section. Local approval is conditioned upon compliance in fact (see sub.
7 (9) and s. ATCP 51.34(4)). The presumption of compliance may be
8 rebutted by clear and convincing evidence in the record (*see s. ATCP*
9 *51.34 and 51.36*).

10
11 (98) DEVIATION FROM DESIGN SPECIFICATIONS. Local approval of a new or
12 expanded livestock facility does not authorize an operator to populate that approved
13 livestock facility if the construction or alteration of an new or expanded animal lot or
14 feed storage structure deviates materially, and without express authorization from the
15 political subdivision, from design specifications included in the application for local
16 approval.

17 NOTE: A political subdivision may inspect animal lots or feed storage structures
18 to verify that they are constructed according to specifications included in
19 the application for local approval. This section *does not require or*
20 *prohibit* local inspection. A deviation under sub. (9) does not invalidate a
21 local approval, but does prevent the livestock operator from populating the
22 approved livestock facility until the deviation is rectified or approved.

23
24 (409) EXEMPTION. This section does not apply if all of the following apply:

25 (a) The operator holds a WPDES permit for the same proposed livestock facility,
26 and that permit is based on housing for a number of animal units that is equal to or
27 greater than the number for which the operator seeks local approval.

28 (b) The operator includes a copy of the WPDES permit with the operator's
29 application for local approval.

30 **Subchapter III**

31 **APPLICATION AND APPROVAL**

1 **ATCP 51.30 Application. (1) GENERAL.** If local approval is required for a new or
2 expanded livestock facility, a person seeking local approval shall complete and file, with
3 the political subdivision, the application form shown in *Appendix A*. The application shall
4 include ~~all~~ only the information required by *Appendix A* and attached *worksheets*,
5 including any authorized modifications made by the political subdivision under sub. (2).
6 The information contained in the application shall be credible and internally consistent.

7 **(2) LOCAL MODIFICATIONS.** A political subdivision may not alter the application
8 form shown in *Appendix A* and attached worksheets, or require any additional
9 information, except that a political subdivision may require information needed to
10 determine compliance with local ordinance standards authorized under s. ATCP 51.10(3)
11 or 51.12(1).

12 **(3) ADDITIONAL COPIES.** A political subdivision may require an applicant to
13 submit up to 4 duplicate copies of the original application and worksheets under sub. (1),
14 except that a political subdivision may not require an applicant to submit duplicate copies
15 of attachments such as engineering design specifications, maps or aerial photos.

16 **NOTE:** A political subdivision must file one duplicate copy of the final
17 application and worksheets with the department, within 30 days after the
18 political subdivision grants or denies that application. *See* s. ATCP
19 51.34(5).
20

21 **(4) LOCAL FEES. (a)** A political subdivision may charge an application fee
22 established by local ordinance, not to exceed \$1,000, to offset the political subdivision's
23 costs to review and process an application under sub. (1).

24 **NOTE:** Under s. 66.0628, Stats., any fee imposed by a political subdivision must
25 bear a reasonable relationship to the service for which the fee is imposed.
26

1 (b) A political subdivision may not require an applicant to pay any fee, or post
2 any bond or security with the political subdivision, except as provided in par. (a).

3 NOTE: If a waste storage facility is abandoned or not properly closed, a political
4 subdivision may seek redress under s. 66.0627 or 254.59, Stats., and other
5 law as appropriate. However, a political subdivision may not require an
6 applicant for local approval to post any bond or security with the
7 application.
8

9 (5) COMPLETE APPLICATION. Within 45 days after a political subdivision receives
10 an application under sub. (1), the political subdivision shall notify the applicant in writing
11 whether the application contains ~~everything~~ the information required under subs. (1) to
12 (4). If the application is not complete, the notice shall specifically describe ~~what else~~ the
13 information is needed to be determined complete. Within 14 days after the applicant has
14 provided ~~everything~~ this additional information required under subs. (1) to (4), the
15 political subdivision shall notify the applicant in writing that the application is complete.
16 A notice of completeness does not constitute an approval of the proposed livestock
17 facility.

18 NOTE: See s. 93.90(4)(a), Stats.
19

20 **ATCP 51.32 Timely action on application.** (1) GENERAL. Except as provided in
21 sub. (2), a political subdivision shall grant or deny an application under s. ATCP 51.30(1)
22 within 90 days after the political subdivision gives notice under s. ATCP 51.30 (5) that
23 the application is complete.

24 (2) TIME EXTENSION. (a) A political subdivision may extend the time limit in sub.
25 (1) for good cause, including any of the following:

- 26 1. The political subdivision needs additional information to act on the application.
27 2. The applicant materially modifies the application or agrees to an extension.

1 (b) A political subdivision shall give an applicant written notice of any extension
2 under par. (a). The notice shall state the reason for the extension, and shall specify the
3 extended deadline date by which the political subdivision will act on the application. 6

4 NOTE: See ss. 93.90(4)(d) and (e), Stats.
5

6 **ATCP 51.34 Granting or denying an application. (1) GRANTING AN**
7 APPLICATION. Except as provided in sub. (2), a political subdivision shall grant an
8 application under s. ATCP 51.30(1) if all of the following apply:

9 (a) The application complies with s. ATCP 51.30.

10 (b) The application contains sufficient ~~credible information to show establish in~~
11 ~~the absence of clear and convincing information to the contrary, that the proposed new or~~
12 expanded livestock facility meets or is exempt from complies with the standards in
13 subchapter II. To the extent that a standard under subch. II vests discretion in a political
14 subdivision, the political subdivision may exercise that discretion.

15 NOTE: See s. 93.90(4)(d), Stats.
16

17 (2) DENYING AN APPLICATION. A political subdivision may deny an application
18 under s. ATCP 51.30 if any of the following apply:

19 (a) The application fails to meet the standard for approval under sub. (1).

20 (b) The political subdivision finds, based on other clear and convincing
21 information in the record under s. ATCP 51.36, that the proposed livestock facility fails
22 to comply with an applicable standard under subch. II.

23 (3) WRITTEN DECISION. A political subdivision shall issue its decision under sub.
24 (1) or (2) in writing. The decision shall be based on written findings of fact included in

1 the decision. The findings of fact shall be supported by evidence in the record under s.
2 ATCP 51.36.

3 NOTE: The Wisconsin Livestock Facility Siting Law, s. 93.90, Stats., provides a
4 new option for "aggrieved persons" to appeal a local livestock facility
5 siting decision. The law does not limit any existing right that any person
6 may have to challenge a local decision in court.

7
8 Under the Livestock Facility Siting Law, an "aggrieved person" may
9 appeal a local decision to the state Livestock Facility Siting Review Board
10 ("Board"). An "aggrieved person" means an applicant for local approval,
11 or a person who resides or owns land within 2 miles of the proposed
12 livestock facility.

13
14 An aggrieved person may appeal a political subdivision's decision within
15 30 days after the political subdivision issues the decision (or, if the
16 aggrieved person pursues a local administrative appeal process, within 30
17 days after that process is complete). The aggrieved person may challenge
18 the local decision on the grounds that it incorrectly applied livestock
19 facility siting standards under this chapter, or violated the Livestock
20 Facility Siting Law.

21
22 When an appeal is filed, the Board must notify the political subdivision.
23 Within 30 days after the political subdivision receives this notice, it must
24 file a certified copy of its decision making record under s. ATCP 51.36
25 with the Board. The Board must review the local decision based on the
26 evidence in the local record (the Board will not hold a new hearing or
27 accept new evidence). The Board must make its decision within 60 days
28 after it receives the certified local record (it may extend the deadline for
29 good cause).

30
31 If the Board determines that the challenge is valid, it must reverse the
32 decision of the political subdivision. The Board's decision is binding on
33 the political subdivision (once any court appeal of the decision is
34 completed, or the appeal time lapses). If the political subdivision fails to
35 comply with the Board's decision, an aggrieved person may bring a court
36 action to enforce the Board's decision.

37
38 An aggrieved person or *the political subdivision* may appeal the Board's
39 decision to circuit court. The circuit court must review the Board's
40 decision based on the evidence in the local record.

41
42 (4) TERMS OF APPROVAL. An approval under sub. (1) is conditioned on the
43 operator's compliance with subch. II and representations made in the application for

1 approval. This chapter does not limit a political subdivision's authority to do any of the
2 following:

3 (a) Monitor compliance.

4 (b) Suspend or revoke an approval, or seek other redress provided by law, if the
5 political subdivision finds any of the following:

6 1. The operator materially misrepresented relevant information in the application
7 for local approval, or materially failed to honor relevant commitments made in the
8 application without authorization from the political subdivision.

9 2. The livestock facility fails to comply with applicable standards in subch. II.

10 NOTE: A political subdivision should exercise sound judgment in deciding
11 whether to take compliance action under sub. (4). The political subdivision
12 may consider extenuating circumstances, such as adverse weather
13 conditions, that may affect an operator's ability to comply. A political
14 subdivision may also consider the nature and seriousness of the violation,
15 whether the violation was intentional or accidental, the operator's
16 compliance history, consistency of enforcement, and whether the problem
17 can be resolved without formal enforcement.

18
19 (5) NOTICE TO DEPARTMENT. (a) Within 30 days after a political subdivision
20 grants or denies an application under this section, the political subdivision shall do all of
21 the following:

22 1. Give the department written notice of its action.

23 2. File with the department a copy of the final application under s. ATCP 51.30 on
24 which the political subdivision acted. The copy shall include the completed application
25 form and worksheets, but need not include attachments such as engineering design
26 specifications, maps or aerial photos.

27 (b) A political subdivision shall submit the information required under pars. (a)
28 and (b), by mail or fax, to the following address:

1 Wisconsin Department of Agriculture, Trade and Consumer Protection
2 Agricultural Resource Management Division
3 Bureau of Land and Water Resources
4 P.O. Box 8911
5 Madison, WI 53708-8911
6 Fax (608) 224-4615
7

8 (c) Failure to comply with par. (a) or (b) does not invalidate a political
9 subdivision's decision to grant or deny an application for local approval.

10 **ATCP 51.36 Record of decision-making.** A political subdivision shall keep a
11 complete written record of its decision-making related to an application under s. ATCP
12 51.30. The political subdivision shall keep the record for at least 7 years following its
13 decision. The record shall include all of the following:

14 (1) The application under s. ATCP 51.30(1), and all subsequent additions or
15 amendments to the application.

16 (2) A copy of any notice under s. ATCP 51.30 (5), and copies of any other
17 notices or correspondence that the political subdivision issues in relation to the
18 application.

19 (3) A record of any public hearing related to the application. The record may be in
20 the form of an electronic recording, a transcript prepared from an electronic recording, or
21 a direct transcript prepared by a professional court reporter or stenographer. The record
22 shall also include any documents or evidence submitted by hearing participants.

23 NOTE: Municipal law normally determines whether a hearing is required. See,
24 generally, ch. 68, Stats.
25

26 (4) Copies of any correspondence or evidentiary material that the political
27 subdivision considered in relation to the application.

1 (5) Minutes of any board or committee meeting held to consider or act on the
2 application.

3 (6) The written decision required under s. ATCP 51.34(3).

4 (7) Other documents that the political subdivision prepared to document its
5 decision or decision-making process.

6 (8) A copy of any local ordinance cited in the decision.

7 **EFFECTIVE DATE AND INITIAL APPLICABILITY.** (1) Except as provided in sub. (2),
8 this rule takes effect on the first day of the month following publication in the Wisconsin
9 administrative register, as provided under s. 227.22(2)(intro.).

10 (2) This rule first applies to small businesses as defined in s. 227.114(1), Stats., on
11 the first day of the third month commencing after the rule publication date, as required by
12 s. 227.22(2)(e), Stats.

13 Dated this _____ day of _____, _____.

14 STATE OF WISCONSIN
15 DEPARTMENT OF AGRICULTURE,
16 TRADE AND CONSUMER PROTECTION

17
18
19 By _____
20 Rodney J. Nilsestuen, Secretary

21

WORKSHEET 1 Animal Unit Calculation

This rule applies to a new or expanded livestock facility that will have more than 500 *animal units* (or will exceed a lower permit threshold established by a local zoning ordinance prior to July 19, 2003) for any single animal type specified in any of the categories below.

To complete this worksheet:

1. Identify each type of *livestock* that you plan to confine or house as part of the new or expanded livestock facility. Enter the maximum number of animals of each type that you might keep for at least 90 days in any 12-month period.
2. Multiply the number of animals of each type by the relevant Animal Equivalency Factor to obtain *animal units* for each type.
3. **Do not aggregate or combine the number of animal units in different categories.**
4. If any animal unit calculation for any animal type in any category specified below exceeds 500 animal units (or will exceed a lower permit threshold established by a local zoning ordinance prior to July 19, 2003), then the provisions of this chapter apply to all new or expanded livestock structures associated with animals in that category.

Current Animal Unit (AU) Numbers

Number Equivalent to 1,000 Animal Units	Animal Type	Animal Equivalency Factor
	DAIRY CATTLE:	
700	Milking and Dry Cows	1.43
1000	Heifers (400 to 1200 lbs)	1.0
5000	Calves (under 400 lbs)	0.2
	VEAL CALVES:	
1000	Per Animal	1.0
	BEEF CATTLE:	
1000	Steer or Cows (400 lbs to Mkt)	1.0
5000	Calves (under 400 lbs)	0.2
700	Bulls	1.43
	SWINE:	
2500	Pigs (55 lbs to Mkt)	0.4
10000	Pigs (up to 55 lbs)	0.1
2500	Sows	0.4
2000	Boars	0.5
	SHEEP:	
10000	Per Animal	0.1
	HORSES:	

500	Per Animal	2.0
Number Equivalent to 1,000 Animal Units	Animal Type	Animal Equivalency Factor
DUCKS:		
5000	Per Bird (Liquid Poultry manure handling)	0.2
30000	Per Bird (Non-liquid poultry manure handling)	0.0333
CHICKENS:		
30000	Per Bird (Liquid poultry manure handling)	0.0333
82000	Layers (Non-liquid poultry manure handling)	0.0123
12500	Broilers and Pullets (Non-liquid poultry manure handling)	0.008
TURKEYS:		
55000	Per Bird	0.018

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WORKSHEET 2
Air Quality Best Management Practices ("BMPs")

The Department believes that using these Best Management Practices ("BMPs") is the preferred approach to controlling air quality at livestock facilities. The Department finds that compliance with these BMPs at new or expanded livestock facilities will provide adequate protection to public health and safety. In addition, it is the Department's policy to seek reasonable uniformity among state air quality standards that apply to livestock operations in order to make the statewide comprehensive program more effective and less complicated for all persons concerned. The Department intends that compliance with these BMPs will result as well in compliance with the Department of Natural Resources' NR 445 rule. Accordingly, these BMPs address both offensive odors and emissions of air contaminants that originate from new or expanding livestock structures.

A. Livestock Structures

Type of Applicant Livestock Facility	Mandatory / Optional	Best Management Practice
All Applicants	Mandatory	Frequent removal of manure (applicant specifies proposal for removal of manure as a part of application) Buildings oriented and constructed to take advantage of natural or man-made berming or windbreak Utilization of windbreak wall (man-made or natural vegetation) placed downwind of exhaust fans Buildings oriented and constructed to consider prevailing winds and downwind receptors/topography Site engineered to encourage wastewater minimization and/or to limit water infiltration into liquid manure wastestreams Isolation or screening of animal housing facilities with windbreaks, buffer strips or other plantings Use adequate bedding (applicant specifies proposal for bedding changes as a part of application) Buildings constructed to use smooth, cleanable surfaces Keep animals and floors clean and dry

All Applicants	Optional (Applicant Must Choose 2)	Use low-dust emission feed handling Maintain feeders to avoid feed loss Livestock housing designed for open air ventilation Bio-filter on ventilation system Decrease airflow
Applicants over 1,000 Animal Units	Additional Optional (Applicant Must Choose 1)	Scrape 3 times daily Treated water flush Fresh water flush Separate solids and remove urine Manure additives Use slotted floors with underfloor pit Airflow distribution (reduce air speeds near surfaces) Monthly cleaning of exhaust fans

B. Waste Storage Structures

Type of Applicant Livestock Facility All Applicants	Mandatory / Optional Mandatory	<p style="text-align: center;">Best Management Practice</p> New manure structures oriented and constructed to consider prevailing winds and downwind receptors/topography Isolation or screening of animal waste handling facilities with windbreaks, buffer strips or other plantings Daily inspection routine plan established and submitted with application, including detail for prompt repair of watering system leaks Implementation of water conservation practices to minimize water usage and reduce liquid waste stream Utilization of dietary manipulation to reduce odor
---	---------------------------------------	--

All Applicants	Optional (Applicant Must Choose 1)	Facility uses bottom filling manure storage methods to lessen surface disturbances Treat manure with additives shown to be effective in mitigating odor Manure composting Ozone addition to lagoon (oxidizes H ₂ S and odor)
Applicants over 1,000 Animal Units	Additional Optional (Applicant Must Choose 1)	Treatment of separated solids: <ul style="list-style-type: none"> • Impact drying OR • Rotary screw press drying Treatment Systems: <ul style="list-style-type: none"> • Anaerobic digestion • Constructed wetlands • Separation and dilution • Anaerobic treatment • Surface aerated lagoons • Biogas generation Membrane filtration system for water clarification and waste reduction Chemical or biological additives Permeable cover for liquid storage lagoon Impermeable cover for liquid storage lagoon Partial lagoon aeration

C. Animal Lots

Type of Applicant Livestock Facility	Mandatory / Optional	Best Management Practice
All Applicants	Mandatory	Frequent cleaning of animal lot (applicant specifies proposal for frequent cleaning as a part of application) Windbreaks

Innovative Air Quality Management Practices (all air quality sources): Applicant may utilize an air quality best management practice that is not listed above if the applicant receives pre-approval for that practice from DATCP prior to submitting an application.