Livestock Facility Siting

2015 Midwest Manure Summit
February 24, 2015
Richard Castenluovo– DATCP
Jerry Halverson– Manitowoc County

Eight years of Livestock Facility Siting

• Local implementation of ATCP 51 since 2006
• Overview of permitting process
• 2014 mandatory rule review
  – Stakeholder input
  – Technical expert committee

Implementation basics

• Local governments have a choice to regulate
• Siting permits are locally issued and enforced
• Local permits are based on uniform state standards and predictable process
• Local governments retain planning and zoning powers to manage land uses
  – Special requirements apply to restricting livestock operations in agricultural zones
Local regulatory activity 2006-2014

101 Ordinances
- 24 counties, 71 towns, two cities (Berlin and Fitchburg), and four villages (Germantown, Richfield, Rochester and New Glarus)
- 63 zoning and 38 licensing

124 Permits
- 8 < 500 AU
- 64 between 500 and 1,000 AU
- 52 > 1,000 AU

Ordinances and permits

Livestock Facility Review Siting Board
- Review local permit decisions under s.93.90(5) Stats.
- Eight appeals decided since 2006
  - Found no jurisdiction for failure to issue permit or make a completeness determination
  - Invalidated, modified and affirmed 6 permits
**Supreme Court review**

- LFSRB modified Larson Acres permit to eliminate these local requirements:
  - Restrictions on fall manure spreading
  - Alfalfa required in crop rotation
  - Increased soil testing
  - Access for tile and well monitoring
  - Compliance with all applicable laws
- Supreme Court in *Adams v. Wisconsin* LFSRB, 2012 WI 85 (2012)
  - Affirmed the LFSRB’s decision
  - Validated framework created by siting law and the LFSRB’s review authority

**What’s working**

- Consistent local regulation
- Predictable process
- Faster permitting
- Odor and water quality protection
- Expedited appeals add certainty

**Farmer benefits: Strengthens “right to farm” protection**

- Permits fix reference points
- Permits add certainty for future expansions
- Permits are permanent and transferable
- Permits indicate compliance with standards
State permitting requirements

- Required state application
- Decision-making timeline
  - 45 days for completeness determination
  - 90 days for decision
  - Record of decision including approval or denial in writing
- $1,000 maximum fee

Permit Thresholds

- Covers production agriculture: cattle, swine, poultry, sheep and goats
- Starts at 500 Animal Units
  - 357 milking cows
  - 1,250 pigs
  - 50,000 layers
- Less 20% of ordinances have lower threshold

State Siting Standards

<table>
<thead>
<tr>
<th>Standard</th>
<th>Covered by CAFO permits</th>
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<tbody>
<tr>
<td>Setbacks for Structures</td>
<td>No</td>
</tr>
<tr>
<td>Odor Management</td>
<td>No</td>
</tr>
<tr>
<td>Waste and Nutrient Management</td>
<td>Yes</td>
</tr>
<tr>
<td>Waste Storage</td>
<td>Yes</td>
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<tr>
<td>Runoff Management</td>
<td>Yes</td>
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<td>-- Animal Lot</td>
<td>Yes</td>
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<tr>
<td>-- Feed Storage</td>
<td>Yes</td>
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DNR CAFO permit may be used to meet siting requirements
Setbacks

- Property line and road setbacks
  - 100-200 foot maximums depending on size
  - 350 feet for manure storage
- Water quality and well setbacks

Existing structures are grandfathered

Odor Management Standard

- Exempts facilities including non-CAFO expansions
- Uses model to estimate odor from manure storage, housing and animal lots
- Credits odor control practices
- Addresses wind direction and distance from neighbors

Passing score > 500
Worksheet 3:
Waste and Nutrient Management

Part A: Waste Generation and Storage Summary

Part B: Land Base for Applying Nutrients

Part C: Nutrient Management Checklist

Part A: Waste Generation

Worksheet

Part A. Waste Generation and Storage Summary

Instructions:
- You must complete Parts A and B of the worksheet. If your livestock facility will have fewer than 500 animal units you may be exempt from Part B, depending on results of Part A. If Part C applies, it must be signed by a qualified nutrient management planer (you may also sign).
- You must fill out Part A of the worksheet if you already hold a WPDES permit for the proposed livestock facility (for the same or greater number of animal units). String check the following box, sign at the bottom of this page, and include a copy of the WPDES permit with your application.

Part A: Waste Generation

<table>
<thead>
<tr>
<th>Description of Storage</th>
<th>Volume A Storage Capacity (in use)</th>
<th>Volume of Average Annual Amount of Waste (in use)</th>
<th>Total Average Annual Amount of Waste (in use)</th>
<th>Average Annual Application Rate (in use)</th>
<th>Storage Description</th>
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<tbody>
<tr>
<td>Animal waste</td>
<td>5,300,000 gallons</td>
<td>2,175,000 gallons</td>
<td>1,175,000 gallons</td>
<td>9,175,000 gallons</td>
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<tr>
<td>Wastewater</td>
<td>5,500,000 gallons</td>
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<td>1,140,000 gallons</td>
<td>Dairy</td>
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<tr>
<td>Leachate</td>
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</table>

Part B: Land Base for Applying Nutrients

Worksheet

Part B. Land Base for Applying Nutrients

1. Enter total animal units in proposed livestock facility (draw worksheet 1). 876

Maps required

Table 1: Acres per Animal Unit

<table>
<thead>
<tr>
<th>Animal Type</th>
<th>Acres per Animal Unit</th>
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</thead>
<tbody>
<tr>
<td>Dairy</td>
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</table>

This applicants over 500 AU must complete Part C.
Part C: Nutrient Management Checklist

- Must answer yes or NA to these questions
- Signature of Nutrient Management Planner
- Signature of applicant

Worksheet 4: Waste Storage

- If new, meet design and construction standards
- If existing, certify no leaking or failing or abandon properly
- Certify capacity
- Signed by licensed engineer or practitioner

Worksheet 5: Runoff Management

- Animal Lots
  - Control runoff
- Feed Storage
  - ≥ 70% moisture
  - Control runoff
- 2002 livestock performance standards
Four year review of ATCP 51 standards

- Completed first review in 2010
  - Delayed ATCP 51 revision until ATCP 50 updated
- Started second review in 2014, the year ATCP 50 revised

2014 Four Year Review

- Submitted implementation report to ATCP Board
- Collected input from farm, government and environmental stakeholders

Advice from expert panel

- Required part of four year review
- 18 public & private sector members and advisors
- Assignment focuses on technical aspects of siting standards
  - Engineering
  - Nutrient Management
  - Odor/Setbacks
Standards must strike a balance

- Protect public health and safety
- Be practical and workable
- Be cost effective
- Be objective
- Use peer-reviewed science
- Promote growth of animal agriculture
- Balance farm viability with other interests
- Be useable by local officials

NR 151/ATCP 50 Standards

- Incorporate newest standards related process wastewater discharges, Phosphorus Index, tillage setback, and pastures
- Follow NRCS standards for new and altered feed storage (e.g. bunkers, paved) except in low risk settings that do not necessitate collection systems or vegetative treatment areas

Engineering highlights

- Allow minor alterations of animal lots without meeting NRCS 635 with additional accountability measures
- Evaluate existing feed storage should for condition and discharge risks
Nutrient management highlights

- Ensure local government access to NM plan documentation regardless of facility size
- Require that NM plans include owned or rented land adequate to spread manure from “the maximum number of animal units authorized under a facility’s permit.”
  - Clarify permit modification process to facilitate use for expansions

Nutrient management highlights

- Incorporate the revised 590 NM standard to better protect water quality (e.g. winter spreading prohibitions and winter spreading plans)
- Consider whether new NRCS 590 adequately address manure spreading risks in sensitive areas

Odor Highlights

Generation Numbers

- Retain numbers for manure storage but base on surface area, not duration of storage
- Change number for dairy and beef flush systems from 10 to 20
- Assign new number for
  - Layers with belt system of 1
  - Sand and Solids Separation Systems of 40 for treatment area and 2 for holding area
Odor Highlights

Housing Control Practices

• Retain numbers for diet manipulation, biofilters air damns and windbreaks but make adjustments.
• Refine treatment options for flush systems to eliminate fresh water and add recirculated flush
• Recognize wet scrubber with a credit of 30% (water) and 90% (chemical)

Odor Highlights

Storage Control Practices

• Reduce anaerobic digestion credit from 80% to 50%, and modify specification for off-farm feedstock and other issues
• Reduce solids separation and reduction credit from 40% to 20%, and revise specification
• Eliminate pre-set aeration credit, and have applicants obtain innovative practice approval
• Increase geotextile cover credit from 50% to 60%

Expert Committee Timeline

September 2014
➢ 1st meeting: ATCP 50/NR 151 incorporation

October
➢ 2nd meeting: Engineering

November
➢ 3rd meeting: Nutrient management

December and January 2015
➢ 4th and 5th meetings: Odor/Setbacks

March -- April 2015
➢ Wrap-up
Livestock Siting and Manitowoc County

- Balancing interests
  - Ag development and natural resource protection
- Experience with Livestock Facility Siting
  - Permits issued
  - Local process
  - Benefits

Ag benefits county

- Ranks in top five WI counties for dairy, corn silage, hay, and winter wheat
- Top 25 U.S. counties for dairy production.
  - Supports 5,105 jobs
  - Generates $1.5 billion in economic activity
  - Contributes $360 million to county’s income.
  - Pays $16.3 million in taxes.

Beach advisories and closings
### Manitowoc County Licensed Facilities

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<tr>
<th>#</th>
<th>Farm/Operation</th>
<th>Milk Laps/Year</th>
<th>Heifers</th>
<th>Calves</th>
<th>Other Bulls/Steers</th>
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**Totals:**
- Milk Laps: 27,312
- Heifers: 10,213
- Calves: 3,921
- Other Bulls/Steers: 3,921
- Total Animals: 41,569
Local permitting procedures

• Pre-permitting meeting(s)
• Neighbor information sessions
  – No public hearings
• Resolving concerns through negotiation

Pre-permitting meetings

• Livestock operator meets with LCD, UWEX and NRCS staff
• Requirements outlined
• Challenges identified
  – Beyond regulatory requirements
• Solutions discussed

Application Review
**Neighbor meetings**

- Project described
- Questions answered
- Issues identified
- Solutions discussed

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**Successes**

- Communication prior to construction
- Neighbors are made aware of standards to be met and have opportunity for input
- County involvement in livestock facility growth
- Reduced neighborhood conflict
- Supported by agricultural community

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**Challenges**

- Process takes time
- Obtain license prior to construction
- Knowledgeable staff to administer
<table>
<thead>
<tr>
<th>DATCP Contacts</th>
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<table>
<thead>
<tr>
<th>Name</th>
<th>Email</th>
<th>Phone</th>
</tr>
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<tbody>
<tr>
<td>Richard Castelnuovo</td>
<td><a href="mailto:richard.casteluovo@wi.gov">richard.casteluovo@wi.gov</a></td>
<td>608-224-4608</td>
</tr>
<tr>
<td>Steve Struss</td>
<td><a href="mailto:steve.struss@wi.gov">steve.struss@wi.gov</a></td>
<td>608-224-4629</td>
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<tr>
<td>Jerry Halverson</td>
<td><a href="mailto:jerryhalverson@co.manitowoc.wi.us">jerryhalverson@co.manitowoc.wi.us</a></td>
<td>920-683-4183</td>
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DATCP Website: [http://livestocksiting.wi.gov](http://livestocksiting.wi.gov)