

--DRAFT PENDING SUB-COMMITTEE APPROVAL--

**WISCONSIN DAIRY TASK FORCE 2.0
SUB-COMMITTEE ON REGULATORY CERTAINTY
MINUTES**

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January 11, 2019

The Regulatory Certainty sub-committee of the Wisconsin Dairy Task Force 2.0 met on Friday, January 11, 2019 beginning at 10:00 a.m. at the University of Wisconsin-Stevens Point, Dreyfus University Center, Room 378, 1015 Reserve Street, Stevens Point, WI 54481.

Call to Order

Chair David Ward called the meeting to order at 10:04 a.m.

Members Present

Members present included: Moriah Brey, Amy Penterman, Bradley Guse, Ted Galloway, Jerry Schroeder, David Ward, and Shelly Mayer. Dairy Task Force 2.0 Chair Mark Stephenson and DATCP staff Ashley Andre also attended.

Brody Stapel, Steve Bechel and Rob Byrne were not able to attend. Peter Vadas, the sub-committee's resource person, was not able to attend due to the federal government shutdown.

Minutes

Approve minutes of last meeting

Chair Ward asked for a motion to approve the minutes. Amy Penterman made a motion. Bradley Guse seconded. The minutes were approved unanimously.

Resume work on tasks identified in charging document

Chair Ward reviewed what was accomplished at the first meeting, putting the identified issues into subgroups and then identifying possible solutions. He explained that today we will dive in to those more and identify potential recommendations.

Chair Ward started by reviewing the possible solutions generated for manure and environmental management. He added that he reached out to Dennis Frame and Amber Radatz about Discovery Farms. They have identified items in the nutrient management rules that are awkward and could be improved. He asked if this is something the group would want to consider.

Mr. Galloway added that the biggest issue is the politicians making rules. There needs to be people from DNR, Discovery Farms and other stakeholders getting together to take a comprehensive look. Regulations need to help us know what you are responsible for.

Ms. Penterman stressed the importance of having consistency across the state. Mr. Galloway added that activists can take advantage of the complexity and inconsistencies in the rules and look for opportunities.

Mr. Schroeder emphasized that state laws shouldn't step on local control, but it should set a minimum and maximum. This allows some leeway, but allows people to know restrictions.

Mr. Guse questioned how we manage the patchwork of regulations so people know how they get from point A from point B. He asked what was the recommendation: should there be a clearinghouse at DATCP, consolidate all the regulations at one agency, create a governing board?

Chair Stephenson asked if there needed to be a sort of judiciary board. Ashley Andre pointed out there is a Livestock Siting Review Board. Mr. Ward provided a brief overview of how the Board functions, reviewing appeals.

Mr. Galloway emphasized we cannot have silos. We need all the partners, DNR, DATCP, the towns, etc. to all sit down and look at the rules to identify where they conflict, where they are similar, etc. Someone once said if there is a new law made, one should be taken away. How do we do that?

Mr. Guse asked about the study to move the permit of CAFOs to DATCP. Mr. Ward explained that with the change of the administration, it is likely not moving forward. Mr. Guse said that the Task Force 2.0 could still recommend the move.

Mr. Galloway said we needed one play book. Ms. Brey used an analogy that the inconsistent rules that are always changing are like playing a board game with a four-year-old.

Mr. Galloway asked if there should be a formal process to study what we have now and how it can be unified for one play book. Ms. Penterman added that if one doesn't exist, no one says that agriculture can't lead the way. With all the regulations, someone has to say stop. We need common sense regulations with agencies working together. She mentioned that she recently had a positive experience doing her walk through with a DNR agent. While she was nervous, there isn't a reason to be fearful and we need to work together.

Mr. Schroeder offered that if we look further ahead, should there be one agency appointed for jurisdiction. For example, for manure, should it be DATCP and DNR? There are so many entities making decisions on regulations.

Mr. Ward asked if there should be a meeting for all the groups that have a say in the permitting process, including DNR, DATCP, towns and counties. It would not include the interest groups, but only the government agencies. Could the charge be to come together to create one play book? Ms. Penterman questioned the likelihood of that happening.

Mr. Ward explained that we need consistent, one-stop shopping throughout the state. He recognizes some areas, like the Karst region, will need some different perimeters.

Chair Stephenson asked who would be likely to not prefer this model. Some thought local officials, interest groups or environmentalists.

Ms. Mayer added that a lot of towns and counties feel stuck in the middle, because they have other constituents. We have to think what is in it for them?

Ms. Penterman mentioned that we would save money by streamlining the process. That doesn't mean we have to cut jobs, but it could reduce costs and the workload for some people.

Mr. Galloway said that in food there seems to be a common play book and thinks the idea should be looked at for manure.

Mr. Ward added that the agencies would also have opinions about who should be in charge of what. It would be helpful for people though to straighten the maze out.

Chair Stephenson added that he knows towns get a lot of flack and complaints about spreading manure. He said that towns likely don't want to deal with it and could point people to a contact at DATCP or DNR to address it.

Mr. Galloway said that he remembers how much chaos there was over cell phone towers back in the day. He also added that nothing should be added to the developed play book until it is unified among all parties.

Ms. Mayer pointed out that we almost have a playbook between the different regulations, between ATCP and NR rules. We also have to remember when federal government changes a standard, such as NRCS, it is automatically updated in other rules. Instead of a play book, are we more concerned about how laws are implemented?

Ms. Brey agreed that we could more concerned about interpretation of laws. Mr. Ward added that we do not want to weaken standards, but to make it easier for everyone to know what is right and wrong.

Chair Stephenson added that it may be helpful if there is a one-page index of what does what. Mr. Guse thought it may exist from a document Dennis Frame developed in the past.

Ms. Mayer added that much depends on the local control, and if you are in a rural community who wishes to keep it that way. At the local level, there are many voices with different concerns.

Ms. Brey added that local governments create new regulations all the time, including those not related to siting, such as you can't spread manure in a township if it's not produced there. How do we deal with that? Ms. Penterman said that we need to protect farmers living in those areas.

Ms. Mayer said that if people are frustrated, they will find a way to stop something they don't want. We need to get more farmers on local boards.

Mr. Ward asked for a recommendation. Should we have a summit meeting between DATCP, DNR and local governments to come together to look at the issues and come up with a play book?

Mr. Guse asked what channel we go through? The Governor? Legislature? A summit could be part of it, but what do we want looking down the road? A state agency? One set of rules?

Mr. Ward agreed that there are many questions. We must convene groups together, because they all have a piece of the pie. Could we also develop a fact sheet that if you have a question, you know who to contact? It allows for town chairs, when they get a call, to give a contact. There is no consistency in message now. Each town is different.

Ms. Penterman said there is so much overlap in agencies that needs to be eliminated. She does see how local government officials don't know who to go to.

Mr. Galloway said that he goes back to why the Task Force was formed; to protect, stabilize and grow a key industry in the state. Divergent regulations and rules create chaos for the dairy farmer. It could be that the Task Force feels that these regulations are an impediment to the long-term stability of the industry. At this time, farmers can't control the future of the industry. With patchwork regulations, there is not a play book. We could call on the state government to analyze the regulations and create a unified playbook with a game plan. This needs to include stakeholders. The recommendation should not get into the details but emphasize that this is a huge impediment. You could make almost an identical recommendation for transportation. We could just lay out the case and point out problems and inconsistencies.

Mr. Schroeder pointed out that we need to be aware of talk to go away with farm and industrial tax breaks.

Ms. Mayer pointed out that previous DATCP secretaries, such as Ben Brancel and Rod Nilsestuen, have called together groups of people to discuss issues and created a one-stop shop for certain topics, such as specialty cheese. It is a type of liaison for a producer to go to on a topic.

Mr. Ward added that so many people are involved. He said that in the last Task Force, there were recommendations that pointed the dairy industry to go in a certain direction, but we couldn't predict how things would end up.

Mr. Galloway said that we need to be bold and concise. Inconsistency affects the long-term health of the dairy industry. We need to look at unifying regulations and creating a one-stop shop. Any new regulations need to be reviewed by all agencies involved.

Ms. Brey gave an example about the implementation of 51 and how people really came to form a compromise.

Mr. Schroeder reminded the group of the Right to Farm Act. Mr. Ward gave some background on its development and how livestock siting followed. Mr. Schroeder said we should revisit what we have and build on that.

Mr. Guse stressed the importance of uniformity and consistency of enforcement.

Mr. Ward mentioned science-based research. He said that in the Consumer Confidence & Perception sub-committee, a recommendation is being developed to develop a fact sheet about Wisconsin's dairy industry and what it means to the state. Possibly sustainability and the industry's commitment to continuous could be part of that. Chair Stephenson added that we may want to have multiple fact sheets so it doesn't get too long. Mr. Ward highlighted that we have many great things about Wisconsin that make it prime for animal agriculture. He did mention, though, that the definition of sustainability is being lost.

Ms. Mayer reminded the group that we live in this world all the time, and we need to remember others outside of the industry have a different vocabulary and understanding. She shared an example of having an intern from outside agriculture and his interpretation of items of nutrients like phosphorus and nitrogen. She added that there are great resources available from places like the Innovation Center for U.S. Dairy. She emphasized that consumers are not dumb; they are just disconnected.

Mr. Galloway thought the idea of a fact sheet is good. He knows that Dairy Management Inc. does good work. Ms. Mayer added that we can start with them. We need to communicate and address their fears.

Chair Stephenson shared the thought that maybe the message hasn't been well-crafted or the audience hasn't been identified. DMI may be writing for dairy farmers. We need to have a simple, streamlined message for consumers that can be given to anyone, even a third grade class.

Chair Ward asked if there was a recommendation on this. Ms. Brey shared an example of how when she went on a tour of a meat processor, it was overwhelming. We have to remember that bullet points only go so far giving them the facts. If farming is not your world, the messages can be overwhelming.

Ms. Mayer emphasized the need to communicate and listen. Chair Stephenson pointed out that social media influencers have more power than people in lab coats in some worlds. Mr. Schroeder added that most people don't care what happens on a farm; they just want to feel good about how it was raised and why they are buying it.

The group discussed how the Innovation Center and others have many messages on sustainability. Ms. Brey and Chair Stephenson will audit existing sustainability educational materials and determine if a recommendation is needed on gaps identified.

Chair Ward pointed out a point from the minutes, about the need to tell the story of continuous improvement in regards to what we do on the farm. Mr. Guse mentioned that we need others to

tell the story of what farmers are doing. He shared examples of DATCP's Producer Led Watershed Grant Program recipients or DNR's green tier program. Ms. Mayer said that it may not have to be that complicated. We need to listen to consumers and reach consumers where they are. She shared an example of the FARM Program, which has a lot of good things, if we as an industry have enough integrity of do it. We need to look at ourselves and hold ourselves to the quality standard to maintain the credibility of the program.

Chair Ward asked if we wanted to make a recommendation to continue the funding for Producer Led Watershed Program grants. Ms. Mayer pointed out that it is a great program, and we may want the recommendation to be even more general. For instance, we support this public/private partnership model that brings stakeholders together. Mr. Guse agreed that we should continue the model, since it could be used for other issues the industry runs into the future. Mr. Galloway said that we could focus it on how current public/private partnerships are extremely effective and that the Dairy Task Force 2.0 feels these partnerships with state funding are essential to continue to protect our water resources.

Ms. Mayer agrees it is an effective template. When considering continuous improvement, we have to consider how do we prove it? She used the example of continuous education credits at PDPW to show completed programs. It is modeled after other industries. It is measurable and voluntary.

Chair Ward asked if we wanted to make a recommendation about continued investment in programs like Producer Led? Mr. Guse asked if we should include Discover Farms? Ms. Mayer asked if we should include the Food Armor program?

Mr. Guse suggested a broader statement that is more inclusive. Mr. Galloway added that they are important for the continued success of the industry to have private/public partnerships.

Chair Ward asked the group to look back at the minutes to consider economic possible solutions. Transportation issues will be addressed in the afternoon. Chair Ward brought up the idea for a recommendation that rBST affidavits not need to be updated annually. Currently, they need to be signed and notarized annually, which is difficult for the industry. It would be a fix in state statute to take out the annual update. The affidavit would just have to be on file. It would become null and void if a farmer starting using rBST. Chair Stephenson asked if there would be a requirement that if the status would change from non-user to user, would they have to contact their milk buyer? Chair Ward said yes.

Mr. Galloway said that while he sees the point, what if people ignore the affidavit on file and cheat? The processor will get sued first. He doesn't know how to better protect the industry. Ms. Penterman pointed out that if people are willing to bend the rules at all, they will likely still bend them whether they sign annually or not. Chair Ward pointed out that 49 other states do it that way, why not Wisconsin? Mr. Galloway added that's because Wisconsin is the best.

Chair Ward also pointed out a labor issue. He said that prisoners learn valuable skills and get a certificate through training while incarcerated at the Waupun Dairy Farm. He learned that while prisoners have this knowledge when released and are very employable, they have difficulty if

they are originally from Milwaukee and have to go back to the community they came from to be assigned to parole officer. For these prisoners to be able to move out of the county to work in a more rural area, a parole officer in that county has to be willing to take them on, which is hard. Ms. Penterman said that she is on the Education Workforce Committee and will bring up the issue.

Ms. Mayer added that she has been asked about the dairy industry's interest in utilizing the Huber system, where employees are dropped off and picked up for work. It could tell a great story for the industry and the community. These are people wanting a second chance, wanting to learn how to work on a farm. Ms. Penterman pointed out that some farms do something similar and some are more successful than others. Chair Stephenson pointed out a recent news story about prisoners being allowed to vote in Florida. That received generally positive press and support from the public. Mr. Schroeder wondered about support for farmers who take on prisoners as employees, such as people who foster children.

Lunch

The group broke for lunch at 12:05 a.m. and reconvened 12:40 p.m.

Minutes

Resume work on tasks identified in charging document

Chair Ward welcomed Mr. Schroeder to review his possible recommendations for transportation. He had six points:

1. The Federal Motor Carrier Safety Administration (FMCSA) Hours of Service (HOS) Electronic Logging Device (ELD) exemption – 49 CFR 395.1(K) allows states to determine the time durations of said exemption.
 - a. Currently the Wisconsin Motor Carrier Safety Regulation – Trans 325.01 definition states: “In this chapter, “planting and harvesting season” means the period of time beginning March 15 through December 15 of each year.”
 - b. Proposal to modify the definition to: “In this chapter, ‘planting and harvesting season’ means the period of time beginning January 1 through December 31 of each year.”
 - c. This modification aligns with the State of Illinois and Michigan provisions.
2. Wisconsin Department of Transportation – DTSD Condition Sheet for Oversize/Overweight Permits.
 - a. “Fluid milk product” (FMP) is defined by 7 CFR 1000.15 and currently states: “...any milk products in fluid or frozen form that are intended to be used as beverages...”
 - b. Proposal to modify to: “...any milk products from the point of production to another point of production or the first point of processing...”
 - c. This would apply to overweight permits when hauling FMP at 98,000 pounds.
3. Increase FMP legal weights on Class “A” highways from 75,000 pounds up to 82,500 pounds for vehicles not in combination (i.e. 5-axle straight trucks.)
 - a. This can be accomplished by adding FMP to Wisconsin Statute s348.27(9m) covering Raw Forest and Agricultural Products Weights Limitations.

4. Exempt trucks transporting FMP from spring thaw frost laws on Class “A” highways which would be similar to the forest products exemptions.
5. Support potential new legislation that would create a new annual permit allowing an increase in weight of CMVs up to 91,000 pounds on six (6) axles on roads up to 15 miles departure off of the state highway system.
 - a. Include CMVs transporting FMP at increased permitted weights.
6. Require local municipalities, towns, and counties to work with businesses transporting products to and from the farms.
 - a. Determine safe, efficient routing to and from farms.

Chair Ward thanked him for providing a starting point. He asked the group for any questions.

Ms. Penterman asked if 15 miles would be enough. Mr. Schroeder thinks it is. She thought it seemed common sense.

Mr. Ward mentioned the need for milk trucks to be treated the same as other industries. There needs to be consistency.

Chair Stephenson asked if there would be any additional safety issues. Mr. Schroeder said there would not be. By adding axles, braking capacity increases. He noted that hauling loads that are not full is more unsafe now in spring. When trucks are not at capacity and on slippery roads, it is difficult to stop. A full load doesn't shift.

Mr. Galloway shared that he thought it seemed understandable and reasonable. There needs to be continuity.

Mr. Ward asked if there is a lack of understanding by law enforcement about current regulations. Mr. Schroeder thinks they understand.

Mr. Galloway provided the example that even if trucks are close to a plant, they may have to stop driving if they are over their hours of service.

Mr. Guse emphasized that the cost of transportation does influence the cost of the economy in a huge way. Mr. Galloway added that many trucks operate less than load.

Mr. Ward added that trucks sometimes have to wait at the barges for extended amounts of time for fertilizer, which also creates issues.

Chair Ward looked back at the meeting minutes from October 31 and asked if the group had any other recommendations for regulatory certainty, consistency and continuity. Mr. Guse said that much that was already said pertains to that.

Mr. Ward asked if the group needed a separate recommendation for the reevaluation of livestock siting. Mr. Guse added that there are loopholes that should be closed and that unfortunately there is patchwork regulation, which is not what it was originally designed to do.

Ms. Penterman asked if it would need to be done through the legislature or administrative rule. Mr. Ward explained that rules still go back to the legislature for review. Livestock siting was written to have a regular five-year review. Ms. Andre added that they are current in the midst of a review. Mr. Ward added that they wanted to get NR151 finished before the review.

Mr. Ward asked the group's preference for a specific recommendation on livestock siting. Mr. Galloway said he would defer to the farmers, Ms. Brey, Ms. Penterman and Ms. Mayer. Ms. Mayer shared that livestock siting can continue to be reviewed as part of its predictable process.

Mr. Ward asked how many areas utilize livestock siting. Could it be made you have to adopt it?

Ms. Mayer asked about a point in the minutes about a note in the minutes about 'Funding research for smart regulations.' Mr. Ward thought that was covered by the Dairy Innovation Hub. Ms Mayer agreed that the Dairy Hub is beneficial for everyone. It is important that the Dairy Innovation Hub is funded, and then the funds can be distributed as needed. The Hub is a thought out and detailed plan.

Set a conference call

The sub-committee chose to have their conference call on February 26, 2019 from 1:00 – 3:00 p.m.

Identify next steps

Chair Ward asked Ms. Andre to review the topics for the upcoming teleconference:

- Mr. Guse and Ms. Penterman will develop a recommendation for the need for consistent regulations and enforcement.
- Ms. Brey and Chair Stephenson will audit existing sustainability educational materials and determine if a recommendation is needed on gaps identified.
- Mr. Galloway will develop a recommendation for continued support for public and private partnerships that address environmental, food safety and animal health concerns.
- Mr. Ward will develop a recommendation to remove the 'annual' requirement for the rBST affidavit.
- Mr. Ward and Mr. Schroeder will develop a recommendation on the transportation issues identified.

Ms. Mayer invited members to attend the PDPW event on January 29, 2019 in Madison.

Mr. Ward asked if anyone had any additional discussion.

Adjournment

Ms. Mayer moved to adjourn. Mr. Guse seconded. Approved. The sub-committee adjourned at 1:32 p.m.

Minutes drafted by Ashley Andre.