



Department of Ag, Trade & Consumer Protection Board
2811 Ag Drive
Madison, WI 53708

July 10, 2019

Dear Members of the Board,

The Wisconsin Dairy Alliance asks you to *not* authorize public hearings on revisions to ATCP 51, using the 2017 hearing draft version, until substantial revisions requested by the livestock associations have been addressed. Although DATCP staff have worked with its technical review committee, staff has not engaged in sufficient stakeholder outreach or “ground trothing” the technical committee’s recommendations to allow this proposed set of rule revisions to move forward.

The last 5 years have been an economic disaster for dairy operations in Wisconsin. Farms were plagued by milk prices below break-even, retaliatory tariffs and extreme weather conditions. The Wisconsin dairy industry cannot withstand additional onerous costs to remain viable as a highly important economic generator to Wisconsin’s economy at over \$43 billion a year for the state’s economy.

We should encourage dairy to remain strong. Livestock siting has helped with that. We cannot afford to take a step backward because of this rule revision.

The current version of the hearing rule draft is far removed from meeting the legislative intent of Chapter 93.90(2)(b), Wis. Stats. which requires DATCP to promulgate rules “specifying standards for siting and expanding livestock facilities.” Those rules must be, inter alia (i) **“practicable and workable”**; (ii) **“cost effective”**; and (iii) **“designed to promote the growth and viability of agriculture in this state.”**

The 2017 proposal, as it is currently written, is not workable for the crucial, yet fragile livestock industries in our state. As an example, the proposed rule significantly increases setbacks, while calculating setbacks from property lines, rather than from neighbors or receptors. The large setbacks envisioned by the 2017 rule would, for many, make adherence to these requirements virtually impossible. The rule also gives discretionary veto power to local decision makers who may be hostile towards growth and expansion of our industry.

The legislative intent of the livestock siting law of *“promoting the growth and viability of agriculture in this state”* will clearly not be met by this proposal.



2003 ACT 235 created the Livestock Siting Law in a bipartisan compromise between Democrat Governor Jim Doyle and legislative Republicans, including negotiated agreements between the agricultural community and Wisconsin Towns' and Counties Associations. The Livestock Siting Law was a fair compromise that provided local governments the tools necessary to protect the health and safety of their residents while balancing the growth of agriculture within our state.

We all understand that DATCP must review ATCP 51 every four years, but there is no requirement that DATCP actually needs to revise the rules it adopted in 2006.

We believe the number of cases before the Livestock Siting Review Board shows how well the Livestock Siting Law is working as intended. The review board has been largely inactive, especially in recent years that coincided with significant expansion of the livestock industry in Wisconsin. The few cases that have appeared recently have not been in the form of odor complaints; rather, these cases have largely focused on local units of government attempting to condition local approvals with "operational" restrictions... which have nothing to do with the adequacy of ATCP 51.

The siting law was intended to apply to the siting and expansion of livestock facilities and related structures – NOT to mandate a host of operational conditions that are already covered under other laws (i.e. NR 151, NR 243, ATCP 50, etc.). It was to provide a viable path for the industry to grow, without a patchwork of regulations.

We do not believe the 2017 version of the hearing draft of ATCP 51 is workable at this time and we urge you to *not* authorize this document for public hearings until thorough revisions have been completed. We look forward to working with you to help ensure the viability of Wisconsin's livestock industry and are dedicated to working with DATCP staff on economically feasible recommendations.

Thank you for your consideration to this important issue.

Sincerely,

Cynthia Leitner

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President, Wisconsin Dairy Alliance

WDA represents modern regulated dairy farms in Wisconsin and works diligently to preserve Wisconsin's heritage as the Dairy State. Our non-profit organization advocates for the truth by contesting unnecessary regulations that do not protect natural resources. The WDA believes in parity for all dischargers and works to operate under the uniform "zero-discharge" standard applied to WDA members.