

## Livestock Facility Siting Rule Revision: Comparisons to the Final Draft Rule

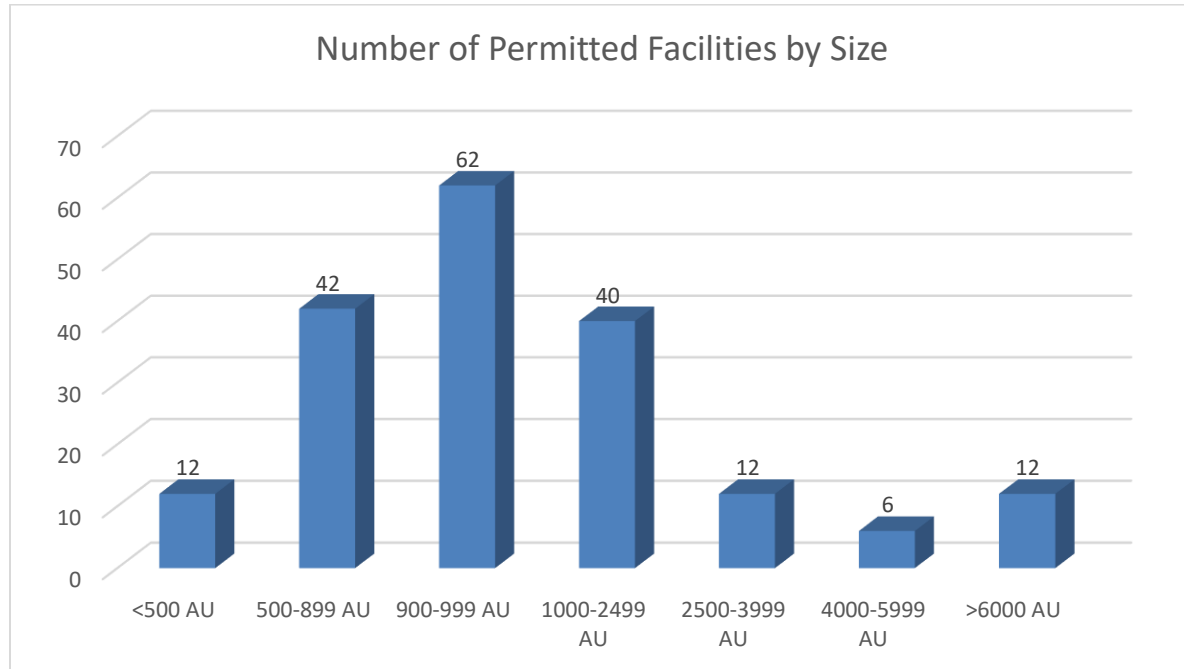
ATCP 51	Hearing Draft Rule	Final Draft Rule
<b>Definitions</b>		
<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>Livestock structures include buildings used to “incinerate or compost dead livestock.” As a result, the general setbacks apply.</li> </ul>
<b>Duration of Local Approval</b>		
<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>Construction of a runoff control that will resolve a documented discharge, must be completed within 6 months of permit approval.</li> </ul>	<ul style="list-style-type: none"> <li>Construction of the runoff control must be completed within 1 year of permit approval.</li> </ul>
<b>Setbacks and Odor Management Standards</b>		
<ul style="list-style-type: none"> <li>Maximum setbacks for livestock structures range from 100 to 200 feet from property line or public road right of way, depending on Animal Units</li> <li>Maximum setback for manure storage is 350 feet from property line or public road right of way</li> <li>Odor score applies to manure storage, livestock housing, and animal lots</li> </ul>	<ul style="list-style-type: none"> <li>General setbacks for livestock structures range from 100 to 300 feet (maximum) from property line or public road right of way, depending on Animal Units</li> <li>The odor score is eliminated</li> <li>The rule establishes setbacks based on odor generation. For manure storage and high odor housing, setbacks range from 600 to 2,500 feet from property line                             <ul style="list-style-type: none"> <li>Allows reduced setbacks for installation and maintenance of odor control practices</li> <li>Eliminates ineffective and hard to document odor control practices</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Maintains the general setbacks for livestock structures</li> <li>For manure storage and high odor housing at expanded livestock facilities, setbacks are reduced and range from 350 to 1,450 feet from property line.</li> <li>For new livestock facilities, the maximum property line setbacks apply to manure storage and high odor housing:                             <ul style="list-style-type: none"> <li>1,050 feet for Category 2 livestock housing</li> <li>1,450 feet for manure storage and Category 1 livestock housing</li> </ul> </li> <li>Allows reduced setbacks for installation and maintenance of odor control practices, including situations in which parcels adjacent to the facility:                             <ul style="list-style-type: none"> <li>Are zoned for agricultural use or not zoned</li> <li>Do not have residences or high-use buildings within 660 feet of the facility’s property line</li> </ul> </li> <li>Producers can document ownership of land under different legal arrangements, effectively expanding the prevailing property line for measuring setbacks. See next row for details.</li> </ul>

<b>ATCP 51</b>	<b>Hearing Draft Rule</b>	<b>Final Draft Rule</b>
<ul style="list-style-type: none"> <li>Property line defined as a line that separates parcels of land owned by different persons.</li> </ul>	<ul style="list-style-type: none"> <li>Property line definition is expanded to clarify that for setbacks property lines are measured from livestock structures to the parcel or other property boundary separating land owned by different persons.</li> </ul>	<ul style="list-style-type: none"> <li>Property line definition is unchanged</li> <li>For the purposes of meeting the property line setbacks from manure storage and high odor housing, the facility owner can demonstrate common ownership or control of adjacent parcels by providing the following: <ul style="list-style-type: none"> <li>Documentation showing the facility operator holds fee title to the parcel</li> <li>Documentation showing the facility operator holds an ownership interest in the parcel in common ownership under a legal business organization</li> <li>Documentation showing the facility operator holds an easement or other legal interest in the parcel</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>Odor management plans are optional, earning 20 points towards a passing odor score.</li> </ul>	<ul style="list-style-type: none"> <li>Odor management plans are required and must include the odor control practices the facility committed to as part of a permit issued under the original rule, unless the operator provides financial or other justification for discontinuing the practice.</li> <li>Local governments can request an updated plan based on a “verified odor complaint” from an adjacent property owner.</li> </ul>	<ul style="list-style-type: none"> <li>Odor management plans are required and must include odor control practices the facility committed to as part of a permit issued under the original rule.</li> <li>The “verified odor complaint” provision is deleted.</li> </ul>
<b><i>Runoff Management Standard</i></b>		
<ul style="list-style-type: none"> <li>Runoff controls required at new or substantially altered feed storage structures that store or handle high moisture feed (&gt;70%)</li> </ul>	<ul style="list-style-type: none"> <li>Runoff controls required at new and substantially altered feed storage structures</li> <li>New and substantially altered feed storage structures that are less than one acre in size and located in areas at low risk of a significant discharge to waters of the state are exempt from having to meet the latest vegetated treatment area standard.</li> </ul>	<ul style="list-style-type: none"> <li>Runoff controls required at new or substantially altered feed storage structures that store or handle feed with 40% or more moisture (excludes low moisture feed)</li> <li>Retains provision that new and substantially altered feed storage structures that are less than one acre in size and located in areas at low risk of a significant discharge to waters of the state are exempt from having to meet the latest vegetated treatment area standard.</li> </ul>

ATCP 51	Hearing Draft Rule	Final Draft Rule
<b><i>Waste Storage Facilities Standard</i></b>		
<ul style="list-style-type: none"> <li>Protects groundwater from existing manure storage leaks and failures by requiring visual inspections when 10 years-old or older.</li> </ul>	<ul style="list-style-type: none"> <li>When older than 10 years-old, require visual inspection of an emptied pit to verify structural integrity and bottom of structure.</li> <li>When not constructed to technical standards (older pits), require visual inspection of an emptied pit, and test pits and soil borings to verify the bottom of structure and adequate separation distance from groundwater in comparison to the NRCS 313 standard dated 2017.</li> <li>Allows local governments to request written report on the methods and results of the investigation.</li> <li>Requires re-evaluation of structure at different time intervals.</li> </ul>	<ul style="list-style-type: none"> <li>Clarifies that pits are to be emptied to the “extent possible.” If emptying or entering an underbarn pit or slurry store is not feasible, alternative methods including test pits and soil borings can be used to check that the pit is not significantly leaking.</li> <li>The NRCS 313 standard dated 2014 shall be used to check for adequate separation distance from groundwater.</li> <li>Allows local governments to request written report on the methods and results of the investigation.</li> <li>Requires re-evaluation of structure at different time intervals.</li> </ul>
<b><i>Local Implementation</i></b>		
<ul style="list-style-type: none"> <li>Does not clarify a process for permit modifications</li> </ul>	<ul style="list-style-type: none"> <li>Clarifies the use of permit modifications either for new or altered livestock structures, or one time addition of up 20% more animal units but no more than 1000 animal units.</li> </ul>	<ul style="list-style-type: none"> <li>Clarifies the use of permit modifications either for new or altered livestock structures, or one time addition of up 20% more animal units but no more than 800 animal units.</li> </ul>
<ul style="list-style-type: none"> <li>Local fees are capped at \$1,000</li> </ul>	<ul style="list-style-type: none"> <li>Local fees are capped at \$1,000, and permit modifications are capped at \$500</li> </ul>	<ul style="list-style-type: none"> <li>The rule does not include a cap on local fees, due to lack of statutory authority</li> </ul>
<ul style="list-style-type: none"> <li>Restricts local governments from requiring financial assurance</li> </ul>	<ul style="list-style-type: none"> <li>Restricts local governments from requiring financial assurance</li> </ul>	<ul style="list-style-type: none"> <li>The rule does not restrict requiring financial assurance, due to lack of statutory authority</li> </ul>
<ul style="list-style-type: none"> <li>The rule does not limit local government’s ability to monitor permit compliance</li> </ul>	<ul style="list-style-type: none"> <li>The draft rule requires local governments to use a DATCP-approved checklist when monitoring permit compliance through self-certification or inspections</li> </ul>	<ul style="list-style-type: none"> <li>Unchanged from the hearing draft rule</li> </ul>

## Key Facts about Local Permitting

October 18, 2019



Permits by animal type				
Predominant animal type	Number permitted under siting	Highest AU of permitted facility	Lowest AU of permitted facility	CAFOs (>1000 AU)
Dairy	157	13,006	260	63
Beef	4	1,915	470	1
Poultry	20	50,000	432	4
Swine	5	1,245	692	1

Thirteen most active permitting authorities (84% of 186 permits issued)			
Local Authority	Current permits	Percent of total permits	CAFOs (>1000 AU)
Manitowoc County Soil and Water Conservation Dept.	28	15%	16
Trempealeau County	25	13%	3
Jefferson County Zoning Department	20	11%	7
Shawano County Zoning	17	9%	11
Marathon County CPZ Department	14	8%	0 <sup>1</sup>
Dodge County Zoning Department	10	5%	1
Walworth County	10	5%	3
Jackson County	7	4%	4
Green County	6	3%	3
Barron County	5	3%	1
St. Croix County	5	3%	3
Town of Luxemburg	5	3%	2
La Crosse County	4	2%	0

<sup>1</sup> Permits terminate at 1000 AU