

Midwest Environmental
A D V O C A T E S
pro bono publico

VIA ELECTRONIC MAIL

November 29, 2004

Gary Rohde, Chair
Livestock Facility Siting Advisory Committee
N8190 1015 Street
River Falls, WI 54022

Rod Nilsestuen, Secretary
Wisconsin Department of Agriculture, Trade, and Consumer Protection
2811 Agriculture Drive
Madison, WI 53708-8911

Re: Comments on the Preliminary Draft of ATCP 51, Livestock Siting Standards

Dear Mr. Rhode and Secretary Nilsestuen,

I am writing to add to my letter to you of November 15, 2004 regarding the Preliminary Draft of ATCP 51.

During the course of the Livestock Facility Siting Committee (“Committee”) meeting on November 11, 2004, several members of the livestock industry suggested that Wisconsin’s effort to develop odor standards was “unprecedented” in some way.

During my testimony before the Committee, I responded that several other agricultural states had developed odor management and air pollution standards for concentrated animal feeding operations (“CAFOs”). I prepared a summary of those state requirements in a letter to Deputy Secretary Judy Ziewacz on November 14, 2003. I have attached that letter for the information of the Committee.

Wisconsin has come a long way in this past year to addressing air pollution from CAFOs. Specifically, CAFOs will be subject to state regulatory requirements for hazardous air pollutant emissions. Wis. Admin. Code Ch. §§ NR 445.01, 445.08. However, Wisconsin still lags behind many states in addressing odor management by CAFOs. I hope the Committee will review this information from other states as it considers odor management standards under ATCP 51, and commit itself to recommending effective odor management requirements.

After all, the only thing worse than doing nothing would be to do next-to-nothing, creating an ineffective set of standards that do little to resolve land use conflicts or address public health.

Finally, I understand that a few Committee members have suggested that additional “credit” should be given to producers that have had few odor complaints or have had good “reputations” in the community. We strongly oppose any such credit related to something as subjective as “reputation” or the number of odor complaints lodged against a livestock operation.

Proponents of the Livestock Facility Siting Act told the public that the law was needed because local governments were not basing local CAFO siting decisions on science. In addition to calling for statewide standards based on science, the Livestock Facility Siting Act even imposed additional science-based requirements on local governments that seek to impose more stringent requirements to protect public health. *See e.g.*, Wis. Stat. § 93.90(3)(a)6.

However, “reputation” is irrelevant to the mandate of the Livestock Facility Siting Act and is not among the factors for consideration in developing statewide standards. Wis. Stat. § 93.90(2)(b). Use of “reputation” also violates the law’s apparent intent to create a level playing field for livestock operations. Wis. Stat. § 93.90(1). If science is required to justify more stringent standards, then science should be required to justify less stringent standards. The reputation of the operator is not “science” and should not be used to loosen odor management requirements.

Thank you for transmitting these additional comments to the Committee, and for your careful consideration. I look forward to seeing you again on December 10, 2004 at the next meeting.

Sincerely,

MIDWEST ENVIRONMENTAL ADVOCATES, INC.

s/ Andrew C. Hanson

Encl.