DEVELOPING A NUTRIENT MANAGEMENT PLAN FOR A LIVESTOCK SITING APPLICATION: LESSONS LEARNED

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The Livestock Siting Law (s. 93.90 Wis. Stats.) and Rule (Ch. ATCP 51 Wis. Adm. Code) establish the framework local governments must use if they elect to regulate the siting of new and expanding livestock operations (typically over 500 animal units). The state standards and process have been incorporated into 20 county and 24 town ordinances, more are expected. To obtain a conditional use permit or license in these jurisdictions, new and expanding operations must show that they meet state requirements for waste storage, odor, nutrient and runoff management. What does this mean for nutrient management planners?

1. Nutrient management requirements for livestock siting applications

Plan like you always have – according to NRCS Technical Standard 590 Nutrient Management (Sept. 2005). The 590 plan must account for all nutrient sources e.g. all animal types at the facility, commercial fertilizer, biosolids. To be enforceable any local requirement for nutrient management requirement beyond the 590 standard must be adopted into an ordinance (e.g. winter spreading restrictions). This means that local governments cannot rely on 590 Standard V.A.2b(2) (related to additional requirements imposed by local conservation plans). In addition, ATCP 51 exempts these sections of the 590 Standard V.D (additional criteria to minimize nitrogen and particulate air emissions), V.E (additional criteria to protect the physical, chemical and biological condition of the soil) and VI (considerations).

When applying for a siting permit, producers are required to complete *Worksheet 3: Waste and Nutrient Management* (http://www.datcp.state.wi.us/arm/agriculture/land-water/livestock_siting/applic_matls_tech_assist.jsp) to demonstrate that their nutrient management plan will meet the 590 Standard. Worksheet 3 is comprised of three parts:

- Part A - Waste Generation and Storage Summary: Account for how much waste (manure, wastewater, leachate) is generated and where will it be stored.
- Part B - Land Base for Applying Nutrients: Account for the land base where the waste will be applied, and/or describe alternatives to spreading (e.g. sold under a fertilizer license). Operations over 500 AU that exceed the acreage per animal unit ratio in Table 1 are required to complete Part C.
- Part C - Nutrient Management Checklist: This checklist is similar to the checklist used by other programs however there are some differences. A qualified nutrient management planner other than the landowner must sign Part C. If needed, soil tests according to A2100 can be completed within 12 months of permit approval, and the plan updated accordingly.

By signing Worksheets 3, consultants or other professionals are attesting to the fact that they have applied their technical knowledge and expertise in the preparation of these worksheets and are prepared to stand behind the assertions in those worksheets. They are not promising that applicants will maintain practices in the future.

If the facility has been issued a DNR WPDES permit for the same or greater number of animal units, the producer may elect to substitute the WPDES permit information for Worksheet 3. In this case the landowner is still required to sign Worksheet 3 and check the box noting that

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their DNR permit is attached. Substitution with the WPDES permit is not required; it is only an option for the landowner.

In addition, planners may assist landowners in calculating the odor score or developing and implementing the required management plans. A plan for training employees and another to deal with environmental incident responses must be submitted with the siting application worksheets. If you work in these areas, you should become familiar with the state requirements. Model plans are available from this web site: http://www.datcp.state.wi.us/arm/agriculture/land-water/livestock_siting/training_materials.jsp

2. Know the local process for obtaining a permit

Make sure the producer you are working with is aware of all applicable regulations and how to demonstrate compliance. It is important to check with both town and county officials for the presence of not only a siting ordinance, but for zoning, floodplain, weight limits on highways and so on.

The siting law mandates a process to review applications that includes certain key deadlines. Local governments must decide if an application is complete within 45 days. While a completeness determination is not a permit approval, it is an important step in the process and creates a presumption in favor of approval. It is important to make sure the producer submits an application that is complete, credible and internally consistent.

Once an application is deemed complete neighbors will be notified about the expansion. ATCP 51 only requires that the adjacent property owners receive notification, yet local ordinances may contain provisions for broader public notice. Similarly, many local processes include public hearings or comment procedures. You may need to testify at a hearing to clarify questions about your nutrient management plan.

Before making a permit decision local governments will scrutinize applications, particularly the manure and nutrient management materials. You should be prepared to explain any plan component that may raise doubt about the credibility or consistency of the plan. For example, be prepared to explain how the plan meets standards if the farmer relies on a land base that has fewer acres to animal units than the ratio in Worksheet 3.

After an application is determined to be complete a decision to grant or deny the application must be made within 90 days. If additional information is needed to review the material, or the applicant modifies the application, the deadline may be extended.

It is critical that applicants submit everything required of them to avoid delays during the permitting process. The importance of providing accurate information at the initial stage of the permit application cannot be understated. If your plan is unclear or questions cannot be answered based on the material submitted it is possible for local government to delay the decision making process and even deny the permit.

3. Understand potential obstacles

Siting can be a lightning rod. The process for obtaining a permit may be used as a public forum for individuals or organizations to express concerns about large scale livestock operations and changing land uses.

Nutrient management is the most controversial siting standard. The dynamic nature of nutrient management planning provides opportunities for challenging conclusions asserted in an

application. Local governments can request the documentation a planner relied upon to answer questions in the checklist. An application can be denied if the documentation upon which the 590 plan is based does not substantiate answers provided in the application.

The public may demand answers about how your plan provides a level of environmental protection. Fear of change sometimes generates resistance to an expansion, a wind farm or other transforming land use. Encourage the landowner to talk with neighbors prior to applying for a permit. If neighbors first learn about an expansion from a public notice, chances are they will not be happy. Having the support of the immediate neighbors is a benefit, especially when contracts for land spreading acreage are necessary.

Public perception reflecting opinions that a big farm will have negative consequences on the neighborhood are often expressed. It is important for the landowner to consider how they will explain their expansion and answer questions from not only local government, but the public as well. While social issues such as impacts on the rural character or quality of life fall outside the scope of a siting permit, others are directly related to the standards applicants are expected to meet. Concerns related to manure spills, fish kills or well contaminations raise performance expectations.

Demonstrating that the farm will meet the permit requirements and clearly explaining how this will be accomplished can alleviate some fears. Consider how to describe what will occur without using too much jargon. How will the new manure pit compare to the storage located on neighbor's farm for the past 10 years? How does the nutrient management plan deal with sensitive areas? Karst features? Odors? Groundwater? Economic return and crop yield? Even though you may not be required to go beyond the 590 Standard, you should work with the producer to develop a plan that effectively protects sensitive areas such as karst.

The state siting standards are designed to protect our natural resources as well as the health of our citizens. Developing a nutrient management plan and following through with implementation can reduce the risk of non-point pollution (Shepard, 2005). The challenge is conveying this information to people unfamiliar with agriculture and manure management.

4. Help producers with compliance after a permit is issued

Under the siting law, local governments have extensive authority to ensure compliance with permit requirements. Annual nutrient management plan updates may be required. The local siting ordinance should describe what information, if any, must be submitted. The operator will need your help to update their nutrient management plan and practices to maintain compliance with the 590 Standard. In addition to plan preparation, planners can help producers manage erosion control to account for rotation changes, maintain manure spreading and other records, and carry out manure and soil tests as needed.

References

Shepard, R. 2005. Nutrient management planning: Is it the answer to better management? J. Soil Water Conserv. 60:171-176.