



September 13, 2019

**Submitted Electronically**

Wisconsin Department of Agriculture, Trade and Consumer Protection Board  
DATCP-ARM, P.O. Box 891  
Madison, WI 53708

**Re: ATCP 51: Livestock Facility Siting Administrative Rule Revision**

Dear Chair Miranda Leis,

The Wisconsin Bankers Association (WBA) is the largest financial trade association in Wisconsin, representing approximately 230 state and nationally chartered banks, savings and loan associations, and savings banks. WBA appreciates the opportunity to comment on the Wisconsin Department of Agriculture, Trade and Consumer Protection's (DATCP) livestock facility siting administrative rule revision (proposed rule).

Wisconsin banks play a large role in their local agricultural communities. Banks foster long lasting relationships with farmers on both a business and personal level. WBA member banks appreciate how vital farms are to Wisconsin and work with them as business and community partners. As such, Wisconsin banks have expressed concern with the proposed changes. Part of a lender's work means having a detailed understanding of farming operations, and agricultural lenders know what it takes to run a successful farm. As such, farmers and lenders alike are deeply troubled that the ATCP 51 changes have been drafted without any input from the farming community. While WBA appreciates the need to maintain a healthy environment in Wisconsin, such a goal must be achieved with the input of the farmers the rule affects. As such, WBA recommends that the proposed rule be returned to DATCP to be reworked with the input of farmers.

In 2017 the DATCP Board (Board) reviewed and rejected a draft of proposed revisions similar to the proposed rule. A component of that rejection was a need for farmer participation and industry input. This component has not been met and the proposed rule instead sets arbitrary lines. Wisconsin dairy is already under severe stress, and the proposed rule will further jeopardize the industry and future processing and jobs without sound, scientific cause. The proposed rule attempts to fix a model that is not broken by presenting impractical changes.

The most significant of those impracticalities are the new odor management standards and proposed setback revisions. Specifically, the proposed rule removes the current odor index and replaces it with a measurement of distances from property lines rather than buildings. Meaning, odor setbacks are not determined based upon distance from a person who can perceive the odor and could instead be set by distance from an empty field. WBA believes the proposed rule should maintain the current standard by measuring from the nearest odor receptor, such as a neighboring residence.

The ATCP 51 setback changes would force farmers to relocate or otherwise jeopardize farming operations by creating impossible scenarios, require additional funding, and generally stymie

growth. For example, the setback distances are not practicable given space constraints. In certain areas, such as north eastern Wisconsin, one Wisconsin bank works with farms where roads cross every mile of space. Here, where acres are divided into squares, the farm was not constructed in a way that could meet the new setback limits. Instead, the farm would have needed to be placed in the middle of the square mile to not reach anyone's property line. Farms are not currently set up this way and thus expansion is rendered impossible under ATCP 51.

The impracticalities of ATCP 51 will impose hardship upon many lenders and their agricultural customers by imposing rule changes in the middle of long time loan relationships. It is WBA's understanding that ATCP 51 was intended to create a Statewide standard for livestock siting. Anytime such standards become subject to modification and permit local variation it imposes expenses and burdens upon lenders who must learn to understand and assist their customers in navigating unknowns and potential inconsistencies. The proposed rule opens the door for patchwork regulation and enforcement that will require the further expenditure of resources for agricultural lenders and ultimately, further burden Wisconsin farmers.

For example, a WBA member has an agricultural customer that just increased their concentrated animal feeding operation (CAFO) from 1,000 to 2,800. Currently, they are working with their lender on a start of 200 to 300 more, and have been approved. The proposed rule would inhibit that because the property lines will change, restricting the prior work they did to increase their CAFO. Under the proposed rule, the costs that went into the CAFO increase would be lost, and additional costs will be incurred in order to meet the new ATCP 51 restrictions.

In conclusion, while WBA supports enhanced environmental protections, such steps must be taken with the input of Wisconsin farmers. WBA recommends that the DATCP Board return the proposed rule for reconsideration with input from the agricultural community.

We appreciate your consideration of these comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rose Oswald Poels".

Rose Oswald Poels  
President/CEO