



## Livestock Facility Siting

# What Livestock Operators Need to Know About Livestock Facility Siting

### Questions and Answers

*Does the siting rule (ATCP 51) apply to all livestock operations?*

No. This rule only applies to *new or expanding* livestock facilities that require local approval, and then *only* if those facilities have expanded by at least 20% and will have 500 or more “animal units” (unless a lower local threshold approved prior to July 19, 2003 applies). This rule will probably affect less than 70 livestock facilities per year, across the entire state.

*When does the rule take effect?*

The rule is effective May 1, 2006 for some operations, and July 1, 2006 for operations with fewer than 25 employees or less than \$5,000,000 annually in sales.

*How do I know if my livestock facility is covered?*

First, check with your county and town. Ask whether there is an ordinance that requires a permit to site or expand your facility. If not, this rule will *not* apply. Local approval can take the form of conditional use permit, a permit or license to operate, or feedlot construction permit. See fact sheet *What is a Livestock Facility under ATCP 51*.

*Can I be prohibited from siting or expanding my livestock facility based on its location in a zoning district?*

Yes, in certain cases if 1) the facility is located in a nonagricultural district or 2) it is located in an agricultural district and the local government has at least one other agricultural district that allows operations of all sizes.

*What standards will I have to meet to site or expand my livestock facility? Are these new requirements?*

In most cases, you will only need to meet the siting standards required by this rule. A local government may adopt stricter siting standards by ordinance, but only if this is justified based on public health and safety. They may also require compliance with shoreland and floodplain zoning ordinances.

Some of the siting standards may be new requirements. However, before the state enacted the livestock facility siting law, local governments could impose unlimited requirements or deny a livestock facility siting or expansion for almost any reason. This rule limits the regulations that a local government may impose before approving a facility.

The siting standards **only** apply to new and expanding livestock facilities in areas that require local approval, and then **only** if they have expanded by at least 20% will have 500 animal units (AU) or more\*.

\* (unless a lower local threshold approved prior to July 19, 2003 applies or an applicant exceeds a previous permit approval).



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Can a local government deny my siting application because of traffic, noise, dust, light, workforce, scenic or lifestyle issues?

No.

Do the same standards apply to all livestock facilities that are covered by the rule?

No. Requirements may vary according to the type, size and location of the livestock facility, and whether the facility is new or expanding. To see how the rule applies to your proposed livestock facility, you should look at the *application form and worksheets*.

Why do we need a standard related to odor?

Odor is a very real, and often highly charged, issue for neighbors and local government. The odor standard will also help protect livestock operators against future odor challenges from encroaching development and establishes rational standards for limiting odor.

Do I have to follow other laws when I site my new or expanded livestock facility?

Yes. Some other laws you may need to comply with include local manure storage ordinances, shoreland and floodplain zoning ordinances, construction site erosion control and stormwater management ordinances, and generally applicable building, electrical, and plumbing codes.

### Siting Worksheets and Standards

Animal Units

Odor Management

Waste and Nutrient Management

Waste Storage

Runoff Management

What do I need to do to get my new or expanding livestock facility approved?

You need to submit the standard *application form and worksheets* to the appropriate local government. These forms ask for all the information needed to determine if your facility will be approved or denied. Completing the worksheets will show you in advance—before you actually submit the application—whether your facility will qualify for approval. If you submit a complete application the local government *must approve* the application unless it has other clear and convincing information that show

that the information is incorrect.

Do I need to complete an application for local approval if I've already received a WPDES pollution discharge permit from the Department of Natural Resources?

If you already hold a WPDES permit for the same facility from DNR (that covers the number of animal units you are proposing), you may submit your WPDES permit in lieu of worksheets 3, 4 and 5.

Can I incrementally expand my facility?

Yes. You can expand your facility in stages. After you receive a permit, you only need to add some animal units and begin constructing any new structures within 2 years. As long as you do those two things, your permit is permanent (for the number of proposed animal units).



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*Will I need professional help to complete the application?*

Yes. Your county land conservation department may be able to help (if they are not the permit issuing agency), but you may need to hire some services. To prepare a complete application, you will need the following help (check first with your county land conservation department):

- A registered professional engineer or certified agricultural engineering practitioner to evaluate your waste storage facilities and runoff management.
- A qualified nutrient management planner, if your proposed facility is required to complete the nutrient management checklist.

*Is this rule going to increase the costs to site or expand my livestock facility?*

Overall, this rule will save money for the livestock industry, but the costs for specific livestock operators will depend on individual circumstances. However, before the Livestock Facility Siting Law was enacted, operators often spent hundreds of thousands of dollars to meet local requirements for proposed expansions, many times without ever getting local approval. This rule ensures the standards, process, and costs are predictable and reasonable.

*Will I have to pay an application fee or post a bond or other security?*

A local government can charge a reasonable fee, not to exceed \$1000, to offset its costs to review and process an application. The fee must be set by local ordinance. A local government may not charge any other fee, or require the applicant to pay any bond or security.

*Does a local government have to offer me cost-sharing to help me meet the standards?*

No. However, a local government may provide cost-sharing for conservation practices if it wishes. Cost-sharing and other investment grants may also be available from other sources.

*Will I know if my facility is approved or denied within a reasonable time frame?*

Yes. A local government must notify you, within 45 days, whether your application is complete. If the application is not complete, the local government must tell you the information that is needed. After you provide this information, the local government must notify you within 14 days that your application is complete. The local government must grant or deny your application within 90 days after it gives this notice of completeness.

The local government must return a copy of the application to you with its approval decision clearly marked. You may record this application with the Register of Deeds.

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*Does the local government have to give me the reasons for its decision to approve or deny my facility?*

Yes. The local government must issue its decision in writing. The decision must be based on written findings of fact, supported by evidence, included in the decision. The local government also must document its decision making process. The official record must include the application for approval, a record of any public hearing, a copy of any local ordinance cited in the decision, and other documents or evidence considered by the local government. The local government must keep the record for at least 7 years.

*What if I—or my neighbor— fails to live up to the terms of approval after we site or expand our livestock facility?*

A livestock operator must construct and operate the approved facility according to rule standards, and must honor representations made in the application for local approval. A local government may monitor compliance. A local government may suspend its approval, or take other action allowed under its ordinance, if approval conditions are not met. You may modify your facility as long as you continue to comply with the standards, without filing a new application. However, you must notify the local government before making those modifications.

*Can I appeal a local government decision? Can others appeal?*

Yes and yes.

Local governments often provide an internal appeal process. You may also appeal a local siting decision to the state Livestock Facility Siting Review Board (LFSRB) or court. You are not required to exhaust the local appeal process before appealing to the Board. Persons who may appeal include the applicant and people who reside or own land within 2 miles of the proposed livestock facility.

The LFSRB must review the local decision based on the evidence in the local record. The local government must certify its record to the Board within 30 days after it receives notice of the appeal. The Board must make its decision within 60 days after it receives the certified local record. The appellant or the local government may appeal the Board's decision to circuit court. The court must review the Board's decision based on the evidence in the local record.

For more information contact the livestock siting program manager at 608-224-4613