



Livestock Facility Siting

Adopting More Stringent Standards

In most cases, local governments must only apply the state siting standards when making a decision about a local siting application. In some instances, however, local conditions warrant requiring applicants to meet more stringent standards to protect public health and safety. The state siting law allows local governments to adopt more stringent standards.

When is a more stringent standard appropriate?

A local government may only adopt a more stringent siting standard in order to protect public health and safety. For example, a community may have soils and geologic conditions that require more landspreading precautions than are necessary in other parts of the state to protect the private and public drinking water wells. More stringent standards are not allowed when public health and safety is not an issue.

How do we adopt a more stringent siting standard?

If a community wants to adopt a more stringent siting standard s. 93.90 Wis. Stats. requires the local government to develop and adopt into its siting ordinance scientifically defensible findings of fact to justify that the more stringent standard is necessary to protect public health and safety. Any more stringent standards must be adopted in an ordinance *prior* to requiring that producers demonstrate compliance in their siting application.

As indicated in ATCP 51.10(3)(a), a local government must have separate authority to impose more stringent local standards. The requirement in rule states that the local government “is authorized to adopt the local standards under other applicable law.” This could be the exercise of village powers or authority granted under s. 92.15, Wis. Stats.

State agency approval of more stringent siting standards is necessary when local government relies on s. 92.15 as a separate authority, and seeks to impose more stringent siting standards related to the NR 151 performance standards or ATCP 50 conservation practices. The local government must obtain state agency approval based on the need to exceed the state water quality standards, before the proposed standards can be incorporated into the siting ordinance.

What if our proposed standard doesn't meet the public health and safety test?

More stringent standards **MUST** be justified on public health and safety reasons if they are to be required as part of a livestock siting permit. In addition, proposed water quality standards regulating beyond the state performance standards necessitate state agency approval under s. 92.15. If local concerns are related to noise or other issues, you should explore other regulatory options that would apply to all facilities, regardless of size or location.

Do we have to use this process for local nutrient management requirements?

Yes! The siting nutrient management standard does not allow local governments to apply additional local nutrient management requirements when a siting application is required. If you want locally-specific nutrient management requirements to apply to those covered by the siting standards, you must adopt those more stringent criteria in your siting ordinance and justify them

based on public health and safety, and possibly water quality as described above. This would include any requirements for winter spreading plans or winter spreading restrictions or bans.

What if an applicant refuses to meet the more stringent standard?

If your local community adopts a more stringent standard, it becomes part of the siting application. If an applicant does not meet that standard, you can deny the application. The applicant retains the right to appeal the approval decision to the Livestock Facility Siting Review Board. The Board has the authority to determine if the more stringent standard was adopted properly and for defensible reasons by the local government, and if not, could overturn the disapproval decision.

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

