



**Nutrient Management Regulation of Wisconsin Farms:
Legal Introduction for Citizens and Community Groups***

Background

Wisconsin farms are becoming larger in size and smaller in number. This trend is generating a growing number of questions regarding applicable nutrient management regulations, which typically vary based upon the size of a particular farm. Larger farms must have a nutrient management plan (NMP) that outlines how farmers apply or spread animal waste. Livestock operations with fewer than 1,000 animal units should have an NMP if a farm is receiving cost-sharing dollars--government funding to complete certain types of projects.

As of the writing of this document, the state is considering updates to Wisconsin Admin. Code ch. NR 151, the state regulations that govern runoff management at all farms over 500 animal units in size. This update is targeted to address risks from spreading of manure in the karst topography of northeast Wisconsin. Though other areas of Wisconsin have karst topography, this rule update will not yet apply outside of northeast Wisconsin. If and when these rule updates are finalized, certain information in this document may change for portions of the state.

Concentrated Animal Feeding Operations (CAFOs)

CAFOs are farms with 1,000 animal units or more. Animal units—calculated based on factors such as animal weight—are not the same thing as number of animals. For example, approximately 750-800 cows are equivalent to 1000 animal units. The Wisconsin Department of Natural Resources (DNR) can define smaller animal feeding operations as CAFOs if DNR makes certain findings, such as finding that the farm has significantly polluted certain water resources or caused fecal contamination of water in a drinking well. The Department of Agriculture, Trade and Consumer Protection (DATCP) also has authority over livestock operations between 500 and 1000 animal units in size.

Sample of Nutrient Management Requirements

	<u>CAFOs</u>	<u>All Farming Operations</u>
Applicable Regulations	Wis. Admin. Code ch. NR 151 AND NR 243	ATCP 50 and NR 151
Winter Spreading	Subject to requirements in NR 243	Generally allowed
Spreading on Shallow Soils	NR 243 generally limits spreading on soils less than 24 inches to bedrock or groundwater	No numeric limitation
Spreading Setback from Drinking Water Wells	100 feet per NR 243	50 feet for farms with NMPs
Manure Ponding & Runoff	Prohibited, with limited exception for extreme weather events	Prohibited, with limited exception for extreme weather events

Table of Laws that Apply to Wisconsin's Livestock Operations

<u>Regulation</u>	<u>Title</u>	<u>State Authority</u>	<u>Applicability</u>	<u>Notes</u>
ATCP 50	Soil and Water Resource Management Program	DATCP	Farming operations 500+ Animal Units	Consult these regulations for more on cost-sharing requirements referenced above
ATCP 51	Livestock Facility Siting	DATCP	Farming operations 500+ Animal Units	Regulates odor, livestock facility location, runoff and nutrient management, and related issues
NR 151	Runoff Management	DNR	Farming operations 500+ Animal Units	Consult DNR website and other resources for regulation updates that may occur in 2018
NR 243	Animal Feeding Operations	DNR	CAFOs only	Includes nutrient management

Local Authority over Livestock Operations

Along with Livestock Facility Siting Law at Wisconsin Stat. § 93.90, Livestock Facility Siting regulations at ATCP 51 limit local control of livestock operations. Local regulation is not comprehensively preempted, but local governments and interested citizens will want to research the extent of their remaining authority over agriculture and how best to exercise that authority. One general option is to enact more stringent standards based on “reasonable and scientifically defensible findings of fact” that “clearly show that the standards are needed to protect the public health or safety.”

Additional Resources

Each of Wisconsin's 72 Counties has a County Conservationist who is an expert on livestock operations of all sizes in a particular county. Contact information for these local experts is typically available in a directory of county employees. Citizens and community groups should also take advantage of the wealth of resources available on the nutrient management websites for DNR as well as DATCP:

- <http://dnr.wi.gov/topic/AgBusiness/CAFO/NutrientManagementPlan.html>
- http://datcp.wi.gov/Farms/Nutrient_Management/index.aspx
- <http://dnr.wi.gov/topic/agbusiness/documents/ComparisonNR151-NR243Requirements.pdf>
- Also consider using the Midwest Environmental Advocates website as a resource, including our Livestock Facility Siting Law webpage at <http://midwestadvocates.org/issues-actions/actions/livestock-facility-siting-law/>

Midwest Environmental Advocates, Inc.
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612 West Main St., Suite 302
Madison, WI 53703
608-251-5047

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