

# CAFO GUIDE FOR WISCONSIN COMMUNITIES

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**Resources and strategies for protecting natural resources and public health from the harmful impacts of industrial agriculture**







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## ABOUT THE GUIDE

This guide is designed for a broad general audience and is intended to help concerned community members protect natural resources and public health from the harmful impacts of industrial agriculture.

### The guide will help you:

- Understand state and local CAFO regulations
- Participate in DNR hearings and other regulatory processes related to CAFO siting and operation
- Exercise your rights to government access
- Advocate for public health and the environment
- Monitor changes in air and water quality

## Getting Started

Whether you have specific concerns about an existing operation or more general concerns about the possibility of a CAFO being built in your community, there are many different ways you can get involved to protect your community. The best way to start is to connect with individuals and grassroots groups that are working to address similar issues in other parts of the state. You'll learn a lot from other organizations already fighting CAFOs, and you will create valuable connections.

## Acknowledgements

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Visit [www.midwestadvocates.org/cafo-guide](http://www.midwestadvocates.org/cafo-guide) to find the most recent version of this guide.



# WHAT IS A CAFO?

A concentrated animal feeding operation, or CAFO, is a large-scale agricultural operation in which animals are raised in confinement. Typically, the animals—and the manure they produce—are concentrated on a relatively small area of land.

In Wisconsin, CAFOs are defined as livestock or poultry operations housing more than 1,000 animal units (AU)—the equivalent of 700 dairy cows, 1000 beef cattle or 2,500 hogs.

As farms have become bigger and fewer in the past two decades, CAFOs have come to represent an increasing percentage of Wisconsin’s livestock industry. In 2005, there were 135 permitted CAFOs operating in the state. That number exceeds 300 today.

Animal Unit Equivalent Guide	
Animal Type	No. of animals equivalent to 1,000 AU
<b>Dairy Cattle</b>	
Milking and Dry Cows	700
Heifers (800-1200 lbs)	900
Heifers (400-800 lbs)	1,600
<b>Beef Cattle</b>	
Steers or Cows (400 lbs to Mkt)	1,000
<b>Swine</b>	
Pigs (55 lbs to Mkt)	2,500
Pigs (up to 55 lbs)	10,000
<b>Chickens</b>	
Layers (non-liquid manure system)	100,000
Broilers/Pullets (non liquid manure)	200,000
<b>Turkeys</b>	55,000
Find the DNR's animal unit calculation worksheet <a href="#">here</a> .	

# THREATS TO LOCAL COMMUNITIES

## Water & Soil Contamination

Manure runoff can pollute streams, lakes and wetlands, while improper manure application, manure spills, and leaking manure storage structures can pollute drinking water. In addition, soil contamination can occur when CAFO waste containing pharmaceuticals, heavy metals, cleaning agents or other chemicals is spread on farm fields.

## Air Pollution

CAFOs emit ammonia, hydrogen sulfide and other noxious gases in concentrations that can cause unpleasant odors and harm human health. Methane and carbon dioxide—potent greenhouse gases—are produced by the anaerobic digestion of manure in large storage structures known as lagoons.

## Declining Property Values

Numerous studies, including a study conducted by the Wisconsin Department of Revenue in 2017, have shown that proximity to a large CAFO has a negative impact on property values,

# HOW ARE CAFOS REGULATED?



## **The Wisconsin Pollution Discharge Elimination System Program**

The Wisconsin Department of Natural Resources (DNR) administers the Wisconsin Pollution Discharge Elimination System (WPDES) program. All CAFOs must have a WPDES permit to operate. The WPDES permitting process includes important opportunities for public input which are discussed on pages 4-6 of the guide.

## **The Livestock Facility Siting Law**

The Livestock Facility Siting Law (Wis. Stat. § 93.90) regulates local government approval of new or expanding livestock facilities in Wisconsin. Administrative rules (ATCP 51), developed by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) set standards for the siting of new facilities in areas that are zoned for agriculture. Issues addressed by the standards include:

- Property line and road setbacks
- Management and training plans
- Odor management
- Nutrient management
- Manure storage facilities
- Runoff management

Under the Livestock Facility Siting Law, local units of governments—such as cities, villages, towns, or counties—do not have to require conditional use or other permits for new or expanding CAFOs. If they choose to require permits, they must adopt all the standards and procedures of Wis. Stat. § 93.90 and ATCP 51.

## **Local Control**

Local units of government have the authority to enact ordinances related to the siting and operation of CAFOs. When they do so, they typically choose to enact manure storage and/or siting ordinances with standards that have been defined by DATCP. However, there are a number of scenarios in which local governments may impose more stringent local requirements:

- Under Wis. Stat. § 93.90, more stringent requirements may be enacted if they are grounded in science and necessary to protect public health and safety.
- Under Wis. Stat. §92.15, more stringent requirements may be enacted if they are necessary to protect water quality.
- Under a local government's police powers, more stringent requirements may be enacted for the "health, safety, and welfare of the public."



# THE WISCONSIN POLLUTION DISCHARGE ELIMINATION SYSTEM (WPDES) PROGRAM

## PART 1: THE WPDES PERMIT APPLICATION PROCESS

Animal feeding operations housing 1,000 or more animal units must apply for and receive a WPDES permit. Applications must be submitted to the Department of Natural Resources at least 12 months before the operator plans to begin operating the facility.

### What information must be included in the permit application?

- The location of the existing or proposed site on maps, including aerial photos and soil survey maps.
- Plans and specifications for:
  - animal housing
  - feed storage structures and areas
  - manure storage facilities
  - wastewater storage facilities
  - wastewater treatment facilities
  - runoff control systems
  - groundwater monitoring systems
  - water supply wells
  - permanent spray irrigation systems
  - service and storage areas
  - outside animal lots
- A complete nutrient management plan (NMP) describing how, when, and where manure and wastewater may be applied to farmland.
- A completed Environmental Analysis Questionnaire (EAQ).

### OPPORTUNITIES TO MAKE A DIFFERENCE



#### Review the permit application

Members of the public have a right to examine documents submitted to the DNR as part of the permit application process. Make sure all required documents have been submitted and review them carefully.

To view permit documents, visit the DNR's E-Permitting web page and click the "Track" option. From there, you can narrow your search by name, county, permit type and/or date the application was submitted.

Tip: File naming for different submissions is inconsistent, so it can be useful to search using a variety of different terms, such as geographic location and different iterations of the CAFO's name.



***Begin your search for permit documents [here](#).***



## PART 2: PARTICIPATING IN THE WPDES PROCESS

Before issuing a WPDES permit, the DNR must provide public notice of its intent and give the public a chance to provide input. The following documents can be found on the [DNR's website](#).

### Public Notice

The public notice provides an overview of the CAFO's proposed size and location. It explains how to provide input and specifies the deadline for submitting written comments. Check the public notice to see if the DNR plans to hold a public hearing. If not, you can request one.

### The Fact Sheet

The fact sheet is a longer document that provides substantially more detail about the proposed operation and the terms of the permit.

### The Draft Permit

The draft permit is an unsigned version of the final permit the DNR proposes to issue. Review the language, limitations, requirements, and schedules of the draft permit carefully. Although it is rare for a permit to be denied outright, the DNR may incorporate changes into the final permit based on input received during the comment period.

## OPPORTUNITIES TO MAKE A DIFFERENCE



### Request a public hearing

A hearing must be held if five or more people request one within 30 days of the public notice. Requests must be in writing and must include the date, the permit number, your interest in the permit and issues to be considered at the hearing.

### Speak at a public hearing

Most permit hearings are relatively informal and resemble a town hall or similar public meeting. Anyone can speak. Time limits may be imposed to ensure that everyone present has the opportunity to speak. DNR typically imposes a time limit of 3 minutes for oral comments. The most effective comments are specific and fact-based. Sweeping comments regarding the general degradation of the environment are rarely effective. There is no "cross-examination" at an informational hearing, although anyone can ask informational or clarifying questions. DNR responds to public comments and questions in a written summary when the final permit is issued.

### Submit written comments

Typically, the deadline for comments is 30 days after the draft WPDES permit was noticed. However, that deadline may be extended if DNR holds a public hearing on the permit. In that case, the DNR will extend the deadline to 7 days after the public hearing.

## PART 3: CHALLENGING A WPDES PERMIT



Wisconsinites have the right to challenge decisions made by administrative agencies, including permitting decisions made by the Department of Natural Resources. Challenging a permit is a relatively complex undertaking, so it's a good idea to seek the advice of an attorney before proceeding.

### OPPORTUNITIES TO MAKE A DIFFERENCE



#### Petition for an administrative hearing

Challenging a WPDES permit starts with filing a petition for an administrative hearing. A minimum of five people must collectively file the petition within 60 days after the DNR has issued the Notice of Final Determination.

The petition must include the specific issues you want to have reviewed, state your unique interest in the issue, and the reasons why a hearing is warranted.

An administrative hearing, also called a contested case hearing, is similar to a court trial and is conducted by the Division of Hearings and Appeals.

A hearing examiner runs the hearing, much like a judge runs a trial. Lawyers often represent the parties involved, and people who want to make statements give testimony under oath as "witnesses."

#### Petition for judicial review

If you disagree with the decision of the administrative hearing examiner, you can appeal the decision by filing a petition for judicial review in circuit court.

The presiding judge will review the evidence presented and affirm, reverse or modify the decision of the hearing examiner.



**Learn more about the  
WPDES administrative  
hearing process.**





# LOCAL CONTROL

## **CAFO moratoriums**

A temporary halt to the construction or expansion of large livestock facilities can give local officials time to review the latest scientific research on CAFOs and their impact on the health, safety and welfare of local residents. Local officials can then determine whether additional protections are necessary.

## **Siting ordinances**

In general, a local government that chooses to regulate new or expanded livestock facility housing 500 or more animal units must adopt standards identical to those in the Livestock Facility Siting Law. However, stricter standards may be adopted if they are grounded in science and necessary to protect public health and safety.

## **Operations ordinances**

A growing number of local governments have enacted ordinances that regulate how CAFOs operate. In doing so, they are relying on powers embedded in the Wisconsin Constitution, as well as specific statutes granting authority to local governments to adopt stricter regulations to protect water quality.

## OPPORTUNITIES TO MAKE A DIFFERENCE



### **Advocate for local CAFO ordinances**

Don't wait for a factory farm to be proposed before you take action. Ask local officials in your community to protect public health and safety by passing CAFO ordinances that are more stringent than what is required under the Livestock Siting Law. In order to do so, they must use "reasonable and scientifically defensible findings of fact" that "clearly show that the standards are needed to protect the public health or safety." This evidentiary bar is vague and has hampered the adoption of stricter standards around the state. However, it is possible to establish more stringent standards, and some towns and counties have successfully done so.



**Contact MEA for examples of CAFO ordinances that have been adopted by Wisconsin municipalities.**





# COMMUNITY ORGANIZING

## OPPORTUNITIES TO MAKE A DIFFERENCE

### Form a community group

CAFOs are often built in areas of least resistance. The presence of a community group that is actively engaged in addressing the impacts of industrial agriculture can discourage a CAFO operator from considering a site in your area.

### Do your homework

Make time for research and preparation. It will save you time and energy and will help you overcome the stereotype that community groups are highly vocal but largely uninformed. That stereotype is often used as an excuse for dismissing calls for greater public participation in local decision-making.

### Make your group visible

Write letters to the editor about CAFOs and their harmful impacts on public health and the environment.

Make presentations at local civic and church groups. Put up posters about your group and start a social media account. Take out ads in local newspapers. Talk with local media to get news coverage about your group and any events you're planning.

### Talk with local officials

Attend local government meetings, including meetings of your county conservation department and local health department. Express your concerns and suggest that protective ordinances be drafted and passed. Concerns that may bring together a broader coalition include damage to local roads from increased traffic and heavy equipment use.

### Network with other groups

You'll learn a lot from other organizations and create valuable connections.



**Connect with the Sustain Rural Wisconsin Network for more resources for grassroots groups.**



# ENVIRONMENTAL MONITORING

Citizen-based monitoring can provide critical baseline and trend data to help public officials and community members make informed decisions about CAFOs and their impact on the environment.

## Surface Water Monitoring

Monitoring local streams and rivers for changes in water quality over time can help you detect possible WPDES permit violations. Your data can be helpful to authorities who investigate violations such as manure runoff events. It can also help your community group establish credibility and a reputation for accuracy.

## Groundwater Monitoring

As with surface water sampling, regular testing of private wells for nitrates and bacteria will provide data that can help determine what effects a CAFO has on your community's groundwater.

## Air Quality Monitoring

CAFOs emit dangerous pollutants such as ammonia, hydrogen sulfide, methane and volatile organic compounds. If you live near an existing or proposed CAFO, consider using a hydrogen sulfide meter and keeping an odor journal. While air emissions are not regulated under the WPDES program, air quality data can be useful in other contexts, including livestock siting decisions, litigation and advocacy efforts.

## OPPORTUNITIES TO MAKE A DIFFERENCE



### Become a Water Action Volunteer

The [Water Action Volunteers Program](#) is a statewide network of volunteers who monitor more than 600 stream locations throughout Wisconsin. Trainings are held in areas across the state, generally in April and May. Equipment and training are provided to volunteers free of charge.

### Collect well water samples

The University of Wisconsin-Stevens Point provides home testing kits as well as instructions for how to properly collect a water sample. More information can be found [here](#).

### Report a violation

Report an environmental violation by calling or texting the DNR hotline (1-800-847-9367), or submit a report at <https://dnrx.wisconsin.gov/rav/>. The more information you provide, the easier it will be to follow up on your report. If possible, take a picture or video of the violation. Keep a record of your report. If you made a phone call, write down who you talked to and what you told them. Ask for written confirmation of your report and written follow-up. If you choose to send a written report, your name and complaint will be part of the public record.





# YOUR RIGHT TO OPEN GOVERNMENT

You have a right to government access and transparency under Wisconsin's Open Records and Open Meetings laws. Knowing your rights will make it easier for you to speak up and be heard by your elected officials.

## Wisconsin's Open Meetings Law

The Open Meetings Law promotes democracy by ensuring that all state, regional, and local governments conduct their business with transparency. The law requires that officials notify the public before any government meeting takes place. The law also says that "all discussion shall be held and all action of any kind, formal or informal, shall be initiated, deliberated upon and acted upon only in open session."

## Wisconsin's Public Records Law

The Public Records Law guarantees your right to inspect and/or copy any record held by a government office or authority, unless it is within specific statutory exemptions or contrary to the public's interest. According to the law, a "record" includes, but is not limited to:

- handwritten, typed, or printed pages
- maps or charts
- photos, films, recordings and tapes
- any other medium on which electronically generated or stored data is recorded or preserved

## OPPORTUNITIES TO MAKE A DIFFERENCE



### File a public records request

Requests can be submitted by mail, email or in person. You are not required to state the purpose of the request, and, with a few exceptions, you are not required to identify yourself. In the request, you should identify the type of records, the subject matter and the time frame.

When you submit a request, you are entitled to copies or transcripts of any non-exempt record. If you request copies of records, you may be charged copy fees. If it is impractical to copy the records, you can inspect them. If inspection is the only option, ask to photograph the record.

The Public Records Law does not require a response within a specific timeframe. However, the Wisconsin Department of Justice policy is that 10 working days generally is a reasonable time for responding to a simple request.



**A sample records request letter can be found in MEA's Open Government Guide.**