

Laws affecting livestock operations

Regulated activity	Local	State	Resources
<p>1. Construction of new or altered livestock structures</p> <ul style="list-style-type: none"> • Manure storage • Animal lots (a.k.a barnyards or feedlots) • Feed storage 	<ul style="list-style-type: none"> • County manure storage ordinances required construction permits: <ul style="list-style-type: none"> ○ Always for new and altered manure storage structures (including transfer systems) ○ Rarely for new or altered animal lots • Livestock facility siting ordinances require permitted facilities to meet standards for new and altered manure storage, animal lots, and feed storage. • Local ordinances may include more stringent standards to protect water quality, and public health and safety. <ul style="list-style-type: none"> ○ State approval may be required 	<ul style="list-style-type: none"> • For livestock operations not subject to DNR CAFOs permits [under 1,000 animal units (714 milking cows)], WI Department of Natural Resources (DNR) may enforce farm runoff standards (without providing cost-sharing) requiring that new or altered storage facilities be installed to technical standards <ul style="list-style-type: none"> ○ DNR may issue notices of non-compliance or take other actions authorized by law • DNR requires plan and specification approval of new or altered structures including storage and digesters for livestock operations permitted as CAFOs <ul style="list-style-type: none"> ○ Permitted CAFO operations are monitored for compliance with standards for manure storage, feedlots, and feed storage • WI Department of Agriculture, Trade, and Consumer Protection (DATCP) requires counties to ensure that that farmers who claim Farmland Preservation Program (FPP) tax credits meet farm runoff standards <ul style="list-style-type: none"> ○ Counties inspect farms every four years, and issue certificates of compliance or compliance schedules as needed 	<ul style="list-style-type: none"> • Access county manure storage ordinances (not all 60 available) <ul style="list-style-type: none"> https://datcp.wi.gov/Pages/Programs_Services/ManureStorageOrdinances.aspx • Search this map <ul style="list-style-type: none"> https://datcpgis.wi.gov/maps/?viewer=ls to find one of the nearly 120 local governments with siting ordinances. • Search this database <ul style="list-style-type: none"> http://dnr.wi.gov/topic/AgBusiness/CAFO/StatsMap.html to find operations with CAFO permits (over 250 permit issued) • Review applicable state rules and statutes <ul style="list-style-type: none"> ○ Performance standards and prohibitions (farm runoff standards) under NR 151, Subchapter II, <ul style="list-style-type: none"> https://docs.legis.wisconsin.gov/code/admin_code/nr/100/151.pdf ○ CAFO rules in NR 243 including Subchapter II, <ul style="list-style-type: none"> https://docs.legis.wisconsin.gov/code/admin_code/nr/200/243.pdf ○ Manure storage ordinances requirements in s. ATCP 50.56, <ul style="list-style-type: none"> https://docs.legis.wisconsin.gov/code/admin_code/atcp/020/50.pdf ○ Livestock facility siting requirements in ATCP 51, <ul style="list-style-type: none"> https://docs.legis.wisconsin.gov/code/admin_code/atcp/020/51.pdf ○ FPP requirements in s. 91, <ul style="list-style-type: none"> https://docs.legis.wisconsin.gov/statutes/statutes/91.pdf
<p>2. Construction in or near lakes, rivers, wetlands, and floodplains</p>	<ul style="list-style-type: none"> • Locally enforced shoreland-wetland zoning, floodplain and other ordinances: <ul style="list-style-type: none"> ○ Impose restrictions on activities near streams or lakes, near or in wetlands, or in floodplains ○ Require permits for construction or other land-disturbing activities 	<ul style="list-style-type: none"> • DNR may require Waterway and Wetlands Permits for construction near wetlands, streams and lakes. Activities triggering a permit include dredging, grading, and wetlands disturbance <ul style="list-style-type: none"> ○ Note: An Army Corps of Engineers wetlands permit may also be needed. 	<ul style="list-style-type: none"> • Review resources for county shoreland, wetland and floodplain ordinances (includes links to NR 115 and 116), <ul style="list-style-type: none"> http://www.wccadm.com/resources • Contact county zoning using this list, <ul style="list-style-type: none"> http://www.wccadm.com/wcca-contacts • Learn about DNR permitting programs, <ul style="list-style-type: none"> http://dnr.wi.gov/topic/waterways/

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<p>3. Construction erosion control and post-construction management of stormwater</p>	<ul style="list-style-type: none"> • Many counties and other local governments require permits for: <ul style="list-style-type: none"> ○ Construction projects that disturb land (may apply to less than one acre particularly in near sensitive areas) ○ Post-construction management of stormwater from areas with impervious surfaces (animal housing, barnyard runoff control systems, manure storage facilities, sand settling lanes) 	<ul style="list-style-type: none"> • DNR requires permits for: <ul style="list-style-type: none"> ○ Construction site erosion control involving land disturbing activities (clearing, grading, excavating, filling) over one acre ○ Post-construction management of stormwater using detention ponds and other approved practices • DNR may pursue enforcement actions on landowners without proper permit coverage or not in compliance with the permit • Livestock operations over 1000 animal units (CAFO) may be required by their DNR WPDES permit properly manage runoff and stormwater 	<ul style="list-style-type: none"> • Learn about DNR program requirements, http://dnr.wi.gov/topic/stormwater • Review applicable state rules <ul style="list-style-type: none"> ○ Performance standards (construction site standards) under NR 151, Subchapter III, https://docs.legis.wisconsin.gov/code/ad_min_code/nr/100/151.pdf ○ DNR Permitting under NR 216, Subchapter III, https://docs.legis.wisconsin.gov/code/ad_min_code/nr/200/216.pdf • Review DNR's guidance on model ordinances for local governments, http://dnr.wi.gov/topic/stormwater/documents/ModelOrdinances.pdf
<p>4. Repair or closure of unsafe or unused manure storage structures</p>	<ul style="list-style-type: none"> • Subject to cost-sharing requirements, a number of county manure storage ordinances may require: <ul style="list-style-type: none"> ○ Repair or closure of leaking or failing manure storage structures ○ Closure of manure storage structures unused for 24 months • Livestock siting ordinances require permitted facilities to maintain the structural integrity of manure storage and have no significant leakage <ul style="list-style-type: none"> ○ Livestock siting ordinances must adopt more stringent standards to mandate closure of storage facilities • County and other ordinances may provide for nuisance abatement orders, and if the nuisance is not corrected, authorize a local government to take action and place lien on the property to recover abatement costs (But see no. 9) 	<ul style="list-style-type: none"> • For livestock operations not permitted as CAFOs, DNR may: <ul style="list-style-type: none"> ○ Enforce farm runoff standards (subject to cost-sharing for existing facilities) requiring repair or closure of leaking or failing manure storage structures and closure of manure storage structures unused for 24 months be closed. ○ May issue a notice of discharge (NOD) to correct discharges with or without an offer of cost-sharing • DNR may require CAFO permit holders to monitor systems; install secondary containment; or replace, upgrade or close systems or structures to prevent water quality problems • DATCP requires counties to monitor and verify conservation compliance for FPP claimants. (see no.1) 	<ul style="list-style-type: none"> • See Resources listed in no. 1 (including applicable rules and statutes) and this additional reference: NR 243, Subchapter III (NODs), https://docs.legis.wisconsin.gov/code/admin_code/nr/200/243.pdf • Review farm runoff rule overview: <i>What farmers need to know</i> http://dnr.wi.gov/topic/nonpoint/documents/farmersneed.pdf • Review nuisance law (including right to farm protections) in s. 823, Stats., https://docs.legis.wisconsin.gov/statutes/statutes/823.pdf

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<p>5. Control of discharges from livestock structures such as manure storage, animal lots, and feed storage</p>	<ul style="list-style-type: none"> • Subject to cost-sharing requirements, a number of county manure storage ordinances may require farmers to correct violations of these prohibitions: <ul style="list-style-type: none"> ○ No overflow from manure storage ○ No direct runoff from a feedlot or stored manure into waters of the state ○ No significant discharges of feed storage runoff and other process wastewater • Livestock facility siting ordinances require permitted operations to: <ul style="list-style-type: none"> ○ Maintain the structural integrity of manure storage, have no significant leakage, and prevent overflows ○ Prevent direct runoff from an animal lot to groundwater • County and other ordinances may require abatement of nuisances (See no. 4) 	<ul style="list-style-type: none"> • For livestock operations not permitted as CAFOs, DNR may: <ul style="list-style-type: none"> ○ Enforce farm runoff standards (subject to cost-sharing for existing facilities) requiring operators to correct manure discharges from livestock structures and require clean water diversion near lakes and streams. ○ Issue an NOD for discharges (see no.4) • CAFO permit holders are prohibited from discharging manure or process wastewater into waters of the state (including calf hutches) except under limited circumstances (e.g. large rain events) • DATCP requires counties to monitor and verify conservation compliance for FPP claimants (see no.1) 	<p>See Resources listed in nos. 1 and 4</p>
<p>6. Manure stacking</p>	<ul style="list-style-type: none"> • County manure storage ordinances may require: <ul style="list-style-type: none"> ○ Require a permit for stacking manure (rare) ○ Prohibit manure stacking in a water quality management areas (WQMAs) (more common) • Livestock siting ordinances prohibit unconfined manure piles permitted farms in areas near lakes and waterways 	<ul style="list-style-type: none"> • For livestock operations not permitted as CAFOs, DNR may enforce farm runoff standards (subject to cost-sharing for existing facilities) that prohibit unconfined manure pile in a WQMA and discharges from stored manure • DNR approves manure stacking for CAFOS with conditions designed to protect surface and groundwater • DATCP requires counties to monitor and verify conservation compliance for FPP claimants (see no.1) 	<p>See Resources listed in nos. 1 and 4</p>

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<p>7. Livestock overgrazing of streambanks</p>	<ul style="list-style-type: none"> • Subject to cost-sharing to correct violations, a number of county manure storage ordinances prohibit overgrazing • Livestock siting ordinances prohibit overgrazing on permitted operations. 	<ul style="list-style-type: none"> • For livestock operations not permitted as CAFOs, DNR may enforce farm runoff standards (subject to cost-sharing for existing facilities) that prohibit overgrazing. • DNR requires that CAFOs meet NR 151 prohibitions such as overgrazing • DATCP requires counties to monitor and verify conservation compliance for FPP claimants (see no.1) 	<p>See Resources listed in nos. 1 and 4</p>
<p>8. Cropland applications of manure and nutrients (including soil erosion control, and management of phosphorus runoff)</p>	<ul style="list-style-type: none"> • County manure storage ordinances may require: <ul style="list-style-type: none"> ○ Submission of a nutrient management plan (NMP) with a permit application ○ Some ordinances require annual NMP submissions • Livestock siting ordinances require permitted facilities to develop and update nutrient management plans <ul style="list-style-type: none"> ○ Livestock siting ordinances must adopt more stringent standards to address phosphorus runoff. • Local ordinances may include more stringent standards to protect water quality, and public health and safety. <ul style="list-style-type: none"> ○ State approval is required 	<ul style="list-style-type: none"> • For livestock operations not permitted as CAFOs, DNR may enforce farm runoff standards (subject to cost-sharing for existing facilities) requiring that farmers have and follow a NMP, control soil erosion and manage phosphorus runoff <ul style="list-style-type: none"> ○ Applied manure may not pond or runoff ○ Manure spreading subject winter and other restrictions designed to protect ground and surface water • CAFO operators must meet more extensive manure management requirements: <ul style="list-style-type: none"> ○ Required to have storage for 180 days avoid winter spreading ○ Additional restrictions on manure applications such as fields with shallow groundwater or bedrock ○ Annual reporting • DATCP requires counties to monitor and verify conservation compliance for FPP claimants (see no.1) 	<p>See Resources listed in nos. 1 and 4</p>

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<p>9. Irrigation of manure on fields</p>	<ul style="list-style-type: none"> • Selective local governments have adopted ordinances that: <ul style="list-style-type: none"> ○ Define as manure irrigation as a public nuisance and ban center pivot and related irrigation ○ Require a conditional use permit 	<ul style="list-style-type: none"> • In addition to requirements in no. 8, CAFO operators must meet: <ul style="list-style-type: none"> ○ Distribution requirements and application rate limits ○ Setback requirements including 500 feet from inhabited dwellings 	<ul style="list-style-type: none"> • See pages (19-28) <i>Considerations for the Use of Manure Irrigation Practices</i> https://fyi.uwex.edu/manureirrigation/files/2016/04/Manure-Irrigation-Workgroup-Report-2016.pdf • Review applicable rules <ul style="list-style-type: none"> ○ NR 243.15(6) (see no. 1 for link) ○ NR 214.14 (irrigation and treatment), NR 214.20 and 214.21 (soil investigation and monitoring) and NR 243.14 (land application), https://docs.legis.wisconsin.gov/code/admin_code/nr/200/214.pdf
<p>10. Air emissions, odor, dust and noise</p> <p><i>Note:</i> Right to Farm Law precludes private nuisance claims unless the farm activity poses a substantial threat to public health and safety, and limits remedies to corrective actions</p>	<ul style="list-style-type: none"> • Many local governments have zoning codes that: <ul style="list-style-type: none"> ○ Segregate land uses by districts (residential, commercial, industrial, and agricultural) to avoid conflicts and nuisances ○ Enforce setbacks for livestock structures from roads, property lines and other features • Livestock siting ordinances require most permitted facilities to meet odor standard for their production area <ul style="list-style-type: none"> ○ Odor standards do not currently apply to manure spreading ○ A few permitted operations have odor management plans to control dust and odor 	<ul style="list-style-type: none"> • DNR does not regulate the emission of hazardous air contaminants associated with agricultural waste except to the extent required by federal law (s. 285.28, stats.) • DNR has power regulate malodorous emissions but it has not been applied to farms (DNR code NR 429.03) 	<ul style="list-style-type: none"> • View this map of zoned communities, ftp://ftp.wi.gov/DOA/public/comprehensiveplans/2011-Report/11-CVT-Zoning-12272010.pdf • Right to Farm Law, s. 823.08, Stats. https://docs.legis.wisconsin.gov/statutes/statutes/823/08 <ul style="list-style-type: none"> ○ Cranberry farming practices were not a nuisance in <i>State of Wisconsin v. Zawistowski</i> https://www.wicourts.gov/ca/opinion/DisplayDocument.html?content=html&seqNo=31742 ○ Nuisance action settled in <i>Nelson v. Matsche Farms Inc.</i>, No. 02-CV-120 https://wcca.wicourts.gov/pdfs/CD1653E9A72A749F45E785B3F2215068.render6/courtRecordEvents7542773004915747381.pdf ○ Manure in a well is pollutant in <i>Wilson Mut. Ins. v. Falk</i> https://www.wicourts.gov/sc/opinion/DisplayDocument.pdf?content=pdf&seqNo=132427

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<p>11. Well and groundwater protection</p>	<ul style="list-style-type: none"> • Zoning and other local ordinances may require that wells be setback from livestock structures 	<ul style="list-style-type: none"> • DNR sets standards for private well construction including setbacks from livestock structures • DNR approves high capacity wells (capable of pumping 70 gallons per minute) • DNR operates compensation program for wells contaminated by manure • DATCP has licensing requirements for dairy farm water supplies 	<ul style="list-style-type: none"> • Learn about DNR program requirements, http://dnr.wi.gov/topic/wells • Review applicable state rules <ul style="list-style-type: none"> ○ Well requirements in NR 812, https://docs.legis.wisconsin.gov/code/ad_min_code/nr/800/812 ○ Dairy farms requirements in ATCP 65, https://docs.legis.wisconsin.gov/code/ad_min_code/atcp/055/65.pdf
<p>12. Spills and releases</p> <p>(Also see no. 5 for discharges)</p>	<ul style="list-style-type: none"> • Livestock siting ordinances require permitted facilities to develop and follow an environmental incident response plan 	<ul style="list-style-type: none"> • DNR requires operators must report incidents (e.g. manure spill) and take corrective actions • CAFO permit holders must develop response plans for manure and other spills • DNR issue an NOD or require a CAFO permit based on the incident • DATCP has spill provisions related to pesticides, and bulk storage of fertilizers and pesticides 	<ul style="list-style-type: none"> • Access applicable state statutes and rules including NR 243, Sub. III, <ul style="list-style-type: none"> ○ Spill law, https://docs.legis.wisconsin.gov/statutes/statutes/292.pdf ○ Pesticides (ATCP 29), https://docs.legis.wisconsin.gov/code/ad_min_code/atcp/020/29 ○ Fertilizer and pesticide and fertilizers, (ATCP 33) https://docs.legis.wisconsin.gov/code/ad_min_code/atcp/020/33
<p>13. Road access, and vehicle weight and size limits</p>	<ul style="list-style-type: none"> • Counties and other municipalities can protect their local roads and public safety by: <ul style="list-style-type: none"> ○ Restricting highway access points ○ Enforcing road weight and size limits for agricultural equipment and vehicles (including implements of husbandry) consistent with state requirements ○ Posting roads imposing special or seasonal weight limitations. ○ Issuing permits for farmers to exceed local limits 	<ul style="list-style-type: none"> • Agricultural equipment and vehicles travelling on state highways are subject to weight, size limitations and other limits • Department of Transportation (DOT) may issue permits to exceed state limits 	<ul style="list-style-type: none"> • Review applicable state statutes <ul style="list-style-type: none"> ○ Vehicle Equipment, Sec. 347 https://docs.legis.wisconsin.gov/statutes/statutes/340.pdf ○ Vehicles - Size, Weight and Load, sec. 348, https://docs.legis.wisconsin.gov/statutes/statutes/348.pdf ○ State and Local Road Authority, s. 348 https://docs.legis.wisconsin.gov/statutes/statutes/348.pdf • Learn more about agricultural equipment and vehicles from DOT website, http://wisconsin.gov/Pages/dmv/agri-eq-veh/default.aspx