

## Chapter NR 243

### ANIMAL FEEDING OPERATIONS

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**Note:** Ch. NR 243 as it existed on June 30, 2007 was repealed and a new Ch. NR 243 was created, Register April 2007 No. 616, eff. 7-1-07.

**Subchapter I — General**

**NR 243.01 Purpose.** (1) The purpose of this chapter is to implement design standards and accepted management practices and to establish permit requirements and the basis for issuing permits to CAFOs. This chapter also establishes the criteria under which the department may issue a notice of discharge or a permit to other animal feeding operations that discharge pollutants to waters of the state or fail to comply with applicable performance standards and prohibitions in ch. NR 151. For other animal feeding operations, it is the intent of the department that a permit would be issued only when it can be demonstrated that an operation has a discharge of pollutants to waters of the state. The authority for promulgation of this chapter is in chs. 281 and 283, Stats.

(2) The department recognizes the unique nature of the state's agricultural industry and the industry's declared interest in protecting and preserving the state's natural resources. The department also recognizes the benefit of manure applied to land for its fertilizer and soil conditioning value, and encourages the management and use of these materials in such a manner. Only those animal feeding operations that improperly manage their wastes and as a result cause groundwater or surface water pollution or that fail to comply with applicable performance standards and prohibitions or those operations that are CAFOs will be regulated under this chapter. It is not the intent of the department to require that all animal feeding operations obtain a permit.

**History:** CR 05-075; cr. Register April 2007 No. 616, eff. 7-1-07.

**NR 243.02 Applicability.** The provisions of this chapter are applicable to large CAFOs and other animal feeding operations that discharge pollutants to waters of the state as determined under subch. III.

**History:** CR 05-075; cr. Register April 2007 No. 616, eff. 7-1-07.

**NR 243.03 Definitions.** The following definitions are applicable to terms used in this chapter. Definitions of other terms and meanings of abbreviations are in ch. NR 205.

(1) "Accepted management practices" means practices, techniques or measures through which runoff, manure, milking center waste, leachate and other waste streams associated with an animal feeding operation are handled, stored, utilized or otherwise controlled in a manner that is intended to achieve compliance with livestock performance standards and prohibitions established in ch. NR 151 and water quality objectives established under chs.

281 and 283, Stats. These practices, techniques or measures are established in this chapter as well as ch. NR 154 and ch. ATCP 50 and may include additional practices and procedures as approved by the department on a case-by-case basis.

(2) "Agricultural storm water discharge" means:

(a) For unpermitted animal feeding operations with 300 to 999 animal units, a precipitation-related discharge of manure or process wastewater pollutants to surface waters from a land application area that may occur after the owner or operator of the animal feeding operation has land applied manure or process wastewater in compliance with a nutrient management plan that meets the nutrient management requirements of this chapter; and

(b) For permitted CAFOs, a precipitation related discharge of manure or process wastewater pollutants to surface waters from a land application area that may occur after the owner or operator of the CAFO has land applied the manure or process wastewater in compliance with the nutrient management requirements of this chapter and the terms and conditions of its WPDES permit.

**Note:** The definition of agricultural storm water discharge does not include discharges of manure or process wastewater pollutants to surface waters from land application activities by an unpermitted small animal feeding operation, because these land application discharges to surface waters by a small operation are not a basis for requiring WPDES permit coverage. See s. NR 243.26 (2) (c).

(3) "Ancillary service and storage areas" means areas that are adjacent to the production area, but are not used for handling or managing livestock, livestock products, mortalities, manure, process wastewater or raw materials. These ancillary areas include areas such as access roads, shipping and receiving areas, pesticide and herbicide storage, oil or fuel storage, raw material handling equipment maintenance, crop equipment or vehicle storage and maintenance areas and refuse piles.

(4) "Animal feeding operation" means a lot or facility, other than a pasture or grazing area, where animals have been, are or will be stabled or confined, and will be fed or maintained for a total of 45 days or more in any 12-month period. Two or more animal feeding operations under common ownership or common management are a single operation if at least one of the following is true:

(a) The operations are adjacent.

(b) The operations utilize common systems for the landspreading of manure or other wastes, including a nutrient management plan or landspreading acreage.

**Note:** While it is not the sole factor used to determine whether operations have a common system for landspreading, use of common land application equipment is one of the factors the department considers when determining if operations have a common system for landspreading.

(c) Manure, barnyard runoff or other wastes are commingled in a common storage facility prior to landspreading.

(5) “Animal unit” means a unit of measure used to determine the total number of single animal types or combination of animal types, as specified in s. NR 243.11, that are at an animal feeding operation.

(6) “Applicant” means an owner or operator of a proposed or existing CAFO that is applying for a WPDES permit.

(7) “Areas of channelized flow” means channels or depressions that concentrate flow and are either:

(a) Man-made by a means other than typical field cultivation practices.

(b) A natural channel or depression that cannot be removed or rerouted using typical field cultivation practices or that form on a recurring basis in the same area.

(8) “ASTM” means the American society for testing and materials.

(9) “Combined animal units” means any combination of animal types calculated by adding the number of single animal types as multiplied by the equivalency factors as specified in s. NR 243.11.

(10) “Compost” has the meaning specified under s. NR 500.03 (44).

(11) “Composting” has the meaning specified under s. NR 500.03 (45).

(12) “Concentrated animal feeding operation” or “CAFO” means an animal feeding operation to which any of the following apply:

(a) The operation has 1,000 animal units or more at any time and stores manure or process wastewater in a below or at grade level storage structure or land applies manure or process wastewater.

(b) The operation has 300 to 999 animal units and has a category I unacceptable practice under s. NR 243.24 (1) (a).

(c) Under s. NR 243.26 (2), the operation is designated by the department as having a significant discharge of pollutants to navigable waters or has caused the fecal contamination of water in a well.

(13) “CAFO outdoor vegetated area” means an area that is part of the ancillary service and storage area that consists of a large open outdoor vegetated area of land used by CAFO animals that is owned or operated by a CAFO and is adjacent or connected to, but not part of, the production area.

(14) “Conduit to a navigable water” means a natural or man-made area or structure that discharges to a navigable water via channelized flow. This includes open tile line intake structures, open vent pipes, sinkholes, agricultural well heads, drainage ditches that discharge to navigable waters and grassed waterways that drain directly to a navigable water.

**Note:** Conduits to navigable waters do not include the components of a subsurface drainage system that are not present at the soil surface.

(15) “Contaminated runoff” means that portion of manure, process wastewater, leachate or other wastes or raw materials mixed with precipitation from animal feeding operations that transports pollutants such as organic matter, suspended solids or nutrients.

(16) “Corrective measures” means accepted management practices or technical standards specified in ch. NR 154 or ATPC 50 designed to address an unacceptable practice or other practices determined by the department to be necessary to protect water quality.

(17) “DATCP” means the Wisconsin department of agriculture, trade and consumer protection.

(18) “Department” means the Wisconsin department of natural resources.

(19) “Designed structures” means groundwater monitoring systems, runoff control structures, permanent spray irrigation or other land application systems, manure, raw materials and waste

storage facilities or other manure or waste transfer or treatment systems.

(20) “Direct conduits to groundwater” mean wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater quarries, or depressional groundwater recharge areas over shallow fractured bedrock.

(21) “Diversion” means a structure built to divert sheet flow or part or all of the water from an existing waterway into a different channel or area.

(22) “Exceptional resource water” means any surface water, or portion thereof, in s. NR 102.11.

(23) “Existing source CAFO” means an operation that is covered by a WPDES permit as of July 1, 2007, and any other permitted operation that is not a new source CAFO.

**Note:** Existing source CAFOs include CAFOs that are permitted as of July 1, 2007, and animal feeding operations in existence on a site prior to April 14, 2003 that add animals and later apply for a WPDES permit.

(24) “Frozen ground” means soil that is frozen anywhere between the first ½” and 8” of soil as measured from the ground surface.

**Note:** Under the definition of frozen ground, soil that is that frozen to a depth of ½” or less as measured from the ground surface is not considered frozen ground.

(25) “Governmental unit” means a municipality as defined in s. 281.01 (6), Stats.

(26) “Grassed waterway” means a natural or constructed waterway or outlet shaped or graded and established in suitable vegetation as needed for the conveyance of runoff from a field, diversion or other structure.

(27) “Hydrologic soil group” means a group of soils having similar runoff potential under similar storm and cover conditions.

(28) “Incorporation” means mixing the manure or process wastewater with surface soil so that at least 80% of applied manure or process wastewater is covered with soil and the application rate is controlled to ensure that applied material stays in place and does not run off. Incorporation includes standard agricultural practices such as tillage or other practices that are the equivalent to providing 80% soil coverage.

(29) “Injection” means the placement of liquid manure or process wastewater 4 to 12 inches below the soil surface in the crop root zone using equipment specifically designed for that purpose and where the applied material is retained by the soil and does not concentrate or pool below the soil surface.

(30) “Land application” means surface application, injection or incorporation of manure, process wastewater or other waste generated by a CAFO on cropland using manure hauling vehicles or equipment.

(31) “Large CAFO” means an animal feeding operation that has 1,000 animal units or more at any time.

(32) “Liquid manure” means manure with a solids content of less than 12%.

(33) “Livestock facility” means a structure or system constructed or established on a livestock operation or animal feeding operation, including a runoff control system associated with an outside feedlot, manure storage facility or feed bunker.

(34) “Livestock performance standards and prohibitions” means performance standards and prohibitions contained in ss. NR 151.05, 151.06, 151.07 and 151.08.

(35) “Long-term no-till” means no-till farming that has been implemented a minimum of 3 consecutive years.

(36) “Manure” means a material that consists primarily of litter or excreta, treated or untreated, from livestock, poultry or other animals. Manure includes material mixed with runoff, bedding contaminated with litter or excreta, or process wastewater.

(37) “Margin of safety level” means the level in a liquid storage or containment facility that is vertically one foot below the lowest point of the top of the facility or structure.

**(38)** “Maximum operating level” means the level in a liquid storage or containment facility, measured vertically from the lowest point of top of the facility, that is the sum of the margin of safety level and the level necessary to contain the precipitation and runoff that will enter the facility as a result of 100–year, 24–hour rainfall event for swine, veal and poultry operations that are new source CAFOs or a 25–year, 24–hour storm event for all other operations.

**(39)** “Medium CAFO” means an animal feeding operation with 300 to 999 animal units that has a category I discharge to navigable waters under s. NR 243.24, or that is designated by the department as a CAFO under s. NR 243.26 (2).

**(40)** “Milking center waste” means all wastes generated at a milking center or milkhouse including waste milk, detergents, acids, sanitizers, manure, bedding materials and footbath chemicals.

**(41)** “New source CAFO” means any of the following:

(a) An operation that is a large CAFO that has been or will be constructed on or after April 14, 2003, on a new site where no other animal feeding operation is located.

(b) An operation that is a large CAFO that was in existence prior to April 14, 2003, but that completely replaces all of its production or processing equipment on or after April 14, 2003.

(c) A new addition to an existing operation that is a large CAFO that is essentially a new production area added on or after April 14, 2003 that is completely independent of the production area in existence on the site before April 14, 2003.

(d) An animal feeding operation that has been constructed on or after April 14, 2003, on a new site where no other animal feeding operation is located and later becomes a large CAFO.

**Note:** New operations are operations that essentially build on a brand new site or significantly modify most or all facilities at an existing site, on or after April 14, 2003.

**(42)** “NOD” means notice of discharge.

**(43)** “NRCS” means the Wisconsin natural resources conservation service.

**(44)** “NRCS Standard 590” means the technical standard for nutrient management contained in Appendix B to ch. ATCP 51, except for section V.D.

**Note:** Appendix B to ch. ATCP 51 includes the September 2005 version of NRCS Standard 590.

**(45)** “100–year, 24–hour rainfall event” means a rainfall event measured in terms of the depth of rainfall occurring within a 24–hour period and having an expected recurrence interval of once in 100 years as identified in Table 1.

**(46)** “Outstanding resource water” means any surface water, or portion thereof, specified in s. NR 102.10.

**(47)** “Pasture or grazing area” means an area where animals graze in large open areas, that is not adjacent to, or connected to, a CAFO production area, and where stocking densities, management systems and management of feed sources ensure that sufficient vegetative cover is maintained over the entire area at all times. A pasture or grazing area is not an animal feeding operation.

**Note:** Operations that have milking centers for animals on pasture or grazing areas are animal feeding operations since the milking center is considered to be an area of confinement.

**Note:** A CAFO may have multiple production areas located at different sites or farms, such as a main farm and satellite feedlots or farms.

**(48)** “Permanent runoff control systems” means constructions or devices installed to permanently contain, control, divert or retard surface runoff water.

**(49)** “Permit” means a WPDES permit for the discharge of pollutants issued by the department under ch. 283, Stats.

**(50)** “Permittee” means an owner or operator of a WPDES permitted CAFO.

**(51)** “Phosphorus index” means the method for assessing and minimizing phosphorus delivery to surface waters associated with manure or process wastewater applications referenced in section V.C.2. of NRCS Standard 590.

**(52)** “Phosphorus index value” means the value calculated using the phosphorus index that identifies the relative level of risk for phosphorus delivery from a field where manure or process wastewater, along with other nutrients sources, have been or will be applied.

**(53)** “Process wastewater” means wastewater from the production area directly or indirectly used in the operation of animal feeding operation that results from any or all of the following:

(a) Spillage or overflow from animal or poultry watering systems.

(b) Washing, cleaning, or flushing pens, barns, manure pits, or other animal feeding operation facilities.

(c) Direct contact swimming, washing, or spray cooling of animals or dust control.

(d) Water that comes into contact with any raw materials or animal byproducts including manure, feed, milk, eggs or bedding.

**(54)** “Production area” means that part of an animal feeding operation that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas but not CAFO outdoor vegetated areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions that separate uncontaminated storm water. Included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment or disposal of mortalities.

**(55)** “Raw materials” means materials typically stored at an agricultural operation that are directly used in livestock production such as bedding material, silage, haylage, grain and other feed sources, but this term does not include pesticides, motor oil or fuel.

**(56)** “Reviewable facility or system” means runoff control structures, feed and other raw materials storage, permanent spray irrigation or other land application systems, groundwater monitoring systems, manure storage facilities, manure treatment or transfer systems, or other structures or systems associated with the storage, containment, treatment or handling of manure or process wastewater.

**(57)** “Saturated soils” means soils where all pore spaces are occupied by water and where any additional inputs of water or liquid wastes cannot infiltrate into the soil.

**(58)** “Solid manure” means manure with a solids content of 12% or more.

**(59)** “Small CAFO” means an animal feeding operation with less than 300 animal units that is designated by the department as a CAFO under s. NR 243.26 (2).

**(60)** “Snow covered ground” means areas of a field covered with any amount of snow.

**(61)** “Source water protection area” means an area delineated by the department for a public water system or including numerous public water systems, whether the source is ground water or surface water or both, as part of the state source water assessment program approved by the U.S. environmental protection agency under 42 USC 300j–13.

**(62)** “Spray irrigation” means the application of liquid manure or process wastewater to cropland using equipment that discharges manure into the air via a single nozzle or multiple nozzles or hoses and disperses the manure over distances greater than could be achieved using typical moving vehicle or manure hauling equipment.

(63) “Storage facility” means an excavated or diked pond, walled structure or platform designed for containment of manure.

(64) “Sufficient vegetative cover” means that crop residue or vegetation is present over an entire area in an amount and density of stand that slows the movement of and limits contaminated runoff and soil erosion.

(65) “Surface applied manure” means manure applied to the ground surface by moving vehicles that is not incorporated or injected.

(66) “Surface water quality management areas” or “SWQMA” means all of the following:

(a) The area within 1,000 feet from the ordinary high water mark of navigable waters that consist of a lake, pond or flowage.

(b) The area within 1,000 feet from the high water mark of navigable waters that consist of a glacial pothole lake.

(c) The area within 300 feet from the ordinary high water mark of navigable waters that consist of a river or stream or other non-lake navigable waters.

(d) The area within 300 feet of conduits to navigable waters.

(67) “Swallet” means a sinkhole or rock hole that intercepts a stream, diverting all or a portion of it to groundwater.

(68) “303 (d) listed waters” means the list of impaired waters in the state developed by the department pursuant to 33 USC 1313 and 40 CFR 130.7.

(69) “Tolerable soil loss” or “T” means the maximum rate of soil erosion, in tons per acre per year, allowable for particular soils and site conditions that will maintain soil productivity.

**Note:** Soil loss will be calculated according to the revised universal soil loss equation II as referenced in ch. ATCP 50 or, potentially, SNAP-Plus software currently being developed by UW-Extension.

(70) “25-year, 24-hour rainfall event” means a rainfall event measured in terms of the depth of rainfall occurring within a 24-hour period and having an expected recurrence interval of once in 25 years as identified in Table 1.

(71) “Unacceptable practice” means a practice that causes or has caused the discharge of pollutants to waters of the state or that results in an operation’s failure to comply with livestock performance standards and prohibitions outlined in ch. NR 151.

(72) “Wastewater treatment strip” means a constructed strip or area of vegetation for reducing sediment, organic matter and other pollutants.

(73) “Waters of the state” has the meaning specified under s. 283.01 (20), Stats.

(74) “Water quality management area” or “WQMA” has the meaning in s. NR 151.015 (24).

(75) “Wetland” means areas delineated on a hydric soils map that are dominated by hydrophytic vegetation. Wetlands do not include prior converted or farmed wetlands.

(76) “Wetland functional values” means the values or uses of wetlands established in s. NR 103.03 (1).

(77) “Wet soil” means soil that is not saturated but has a moisture content that limits its ability to absorb significant amounts of additional liquid.

(78) “Winter acute loss index value” means the value calculated using the phosphorus index that identifies the relative level of risk for acute losses of manure and process wastewater pollutants associated with surface applications during frozen or snow-covered conditions.

(79) “WPDES” means the Wisconsin pollutant discharge elimination system established under ch. 283, Stats.

**History:** CR 05-075; cr. Register April 2007 No. 616, eff. 7-1-07.

**NR 243.04 Rainfall events.** The design rainfall amount and probable intensity of 25-year, 24-hour and 100-year, 24-hour rainfall events for locations in Wisconsin shall be determined from the data in Table 1, or for a particular location, the determination may be made on the basis of more recent rainfall

probability data verified by a government agency and approved by the department for this purpose.

**TABLE 1**  
**Probable 25-year and 100-year 24-Hour Rainfall Events, In Inches of Rain, for Counties in Wisconsin**

	25-year	100-year		25-year	100-year
Adams	4.7	5.9	Marathon	4.5	5.7
Ashland	4.3	5.4	Marinette	4.1	4.9
Barron	4.6	5.8	Marquette	4.6	5.8
Bayfield	4.4	5.4	Menominee	4.3	5.2
Brown	4.3	5.1	Milwaukee	4.5	5.5
Buffalo	4.8	6.1	Monroe	4.8	6.1
Burnett	4.6	5.7	Oconto	4.2	5.1
Calumet	4.4	5.3	Oneida	4.3	5.3
Chippewa	4.7	5.8	Outagamie	4.4	5.3
Clark	4.7	5.9	Ozaukee	4.4	5.4
Columbia	4.7	5.9	Pepin	4.8	6.0
Crawford	5.0	6.2	Pierce	4.8	6.0
Dane	4.8	6.0	Polk	4.7	5.8
Dodge	4.6	5.7	Portage	4.5	5.7
Door	4.1	4.9	Price	4.4	5.5
Douglas	4.4	5.5	Racine	4.6	5.6
Dunn	4.7	6.0	Richland	4.9	6.2
Eau Claire	4.7	6.0	Rock	4.7	6.0
Florence	4.1	4.9	Rusk	4.6	5.7
Fond du Lac	4.5	5.6	St. Croix	4.7	5.9
Forest	4.2	5.1	Sauk	4.8	6.1
Grant	5.0	6.2	Sawyer	4.5	5.6
Green	4.8	6.1	Shawano	4.4	5.4
Green Lake	4.6	5.7	Sheboygan	4.4	5.4
Iowa	4.9	6.2	Taylor	4.6	5.7
Iron	4.3	5.3	Trempealeau	4.8	6.1
Jackson	4.8	6.0	Vernon	4.9	6.2
Jefferson	4.6	5.8	Vilas	4.3	5.2
Juneau	4.7	6.0	Walworth	4.6	5.8
Kenosha	4.6	5.7	Washburn	4.5	5.6
Kewaunee	4.2	5.0	Washington	4.5	5.5
LaCrosse	4.9	6.1	Waukesha	4.6	5.6
Lafayette	4.9	6.2	Waupaca	4.5	5.5
Langlade	4.3	5.3	Waushara	4.6	5.7
Lincoln	4.4	5.5	Winnebago	4.5	5.5
Manitowoc	4.3	5.2	Wood	4.6	5.8

**History:** CR 05-075; cr. Register April 2007 No. 616, eff. 7-1-07.

**NR 243.05 Calculating animal units.** (1) **GENERAL.** The total number of animal units at an operation shall be calculated using the methods in both subs. (2) and (3). The department shall compare the totals under both of these methods and shall use the highest calculated total to determine the size of an animal feeding operation. An owner or operator of an animal feeding operation shall use form 3400-25A for calculating the number of animal units present at the operation.

**Note:** In accordance with the definition in s. NR 243.03(4), animals included in the total count may be housed at more than one site or location.

**Note:** Form 3400-25A can be obtained at regional offices of the department or the department’s Bureau of Watershed Management, 101 S. Webster St., P.O. Box 7921, Madison, Wisconsin 53707.

(2) **COMBINED ANIMAL UNITS.** The number of animal units present at an operation shall be calculated by multiplying the number of animals for each animal type by the appropriate equivalency factor in Table 2A. The total number of animal units at the operation is the sum of the calculated animal unit numbers of all animal types present at the operation.

**Note:** Under the combined animal unit calculation, an operation with 400 animal units of milking cows, 300 animal units of heifers and 200 animal units of swine would have a total of 1000 animal units present.

(3) **INDIVIDUAL ANIMAL UNITS.** The number of animal units present at an operation shall be calculated by multiplying the num-