

General Code of Ordinances for Marathon County Chapter 13 – Livestock Facilities Licensing Ordinance



Approved by Marathon County
Environmental Resources Committee
September 5, 2019

Approved by Marathon County
Board of Supervisors
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Title 1: TITLE, PURPOSE AND SCOPE

Chapter 13.101

General

The County of Marathon does hereby ordain as follows:

Section 13.101.01 TITLE

This section shall be known, referred to and cited as the “Livestock Facilities Licensing Ordinance.”

Section 13.101.02 PURPOSE

The purpose of this ordinance is to comply with requirements of Wis. Stats. 93.90 ch. ATCP 51, Wisconsin Administrative Code (ATCP51), and to establish standards and authority to protect the public health and safety of the people of Marathon County (County). This ordinance sets forth the procedures for obtaining a license for the siting of new and expanded livestock facilities in Marathon County. It is also intended to provide for the administration and enforcement of the ordinance and provide penalties for its violations.

Section 13.101.03 STATUTORY AUTHORITY

This ordinance is adopted pursuant to the powers granted under the Wisconsin Constitution, and Wisconsin Statutes including but not limited to Section 92.15 and 93.90, WI Administrative Code ATCP51, or any successor Statutes or Administrative Code.

Title 2: LICENSING

Chapter 13.201

License

Section 13.201.01 LICENSE REQUIRED

- A. A license issued by the Department is required for new or expanded livestock facilities that has or will have 500 or more animal units. A livestock facility shall remain licensed under this ordinance until such time as the facility is designated as a Concentrated Animal Feeding Operation (CAFO) by the Wisconsin Department of Natural Resources (DNR), issued a Wisconsin Pollutant Discharge Elimination System (WPDES) permit by the DNR, and provides documentation to the county of its WPDES permit.
- B. By applying and/or receiving a license, an applicant consents to allow the Director or their designee to enter upon and inspect the property as needed.
- C. Licenses for existing Livestock Facilities
 1. A license is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all of the following:
 - a. The applicable size threshold for a license.
 - b. The maximum number previously approved or, if no maximum number was previously approved, a number that is 20% higher than the number kept on May 1, 2006 or on the effective date of the license requirement, whichever date is later.
 2. A license is not required for a livestock facility that existed before May 1, 2006 or before the effective date of the license requirement in this ordinance, except as provided in sub. (1).

3. A license is not required for a livestock facility that was previously issued a conditional use permit, license or other local approval, except as provided in sub. (1). A prior approval for the construction of a livestock facility implies approval for the maximum number of animal units that the approved livestock facility was reasonably designed to house, except as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility.

Section 13.201.02 LICENSE ADMINISTRATION

- A. The Director (Director) of the Department for Marathon County hereby holds the position of Livestock Facility Siting Administrator, who shall have the primary responsibility of administering this ordinance and related matters thereto, and may designate/delegate these duties to other Department staff.
- B. Powers and Duties of the Director or their designee: In the administration and enforcement of this ordinance, the Director or designee shall have the following powers and duties:
 1. Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications.
 2. Require owners and/or operators of livestock facilities that may be subject to the provisions of this ordinance to submit an animal unit worksheet to verify animal numbers.
 3. Receive and review applications and records related to application and license. Investigate permit applications and collect fees. Make on-site inspections to determine application completeness and compliance with the provisions of this ordinance in order to document findings.
 4. Issue licenses and take any and all actions in conformance with the provisions of this ordinance to ensure compliance.
 5. Upon reasonable cause to believe a violation has occurred, order the cessation of construction, suspend and/or revoke the license.
 6. Make administrative decisions and determinations as are specifically assigned to the Director, or their designee, by the terms of this ordinance
 7. Report violations of this ordinance or other land use regulations to the Environmental Resources Committee and/or Corporation Counsel, as necessary
- C. Maintenance of Records: Records shall be maintained in the county office:
 1. Records of applications received, committee, board, and/or department action on such applications, permits issued, inspections made, enforcement actions undertaken, and other similar activities.
 2. An original or master of the ordinance shall be maintained current with amendments.

Section 13.201.03 LICENSE STANDARDS

The standards for issuing a license are as follows:

- A. The state livestock facility siting standards adopted under ATCP51, Wisconsin Administrative Code, inclusive of all appendices and worksheets and any future amendments to this ordinance, except as may be noted in this section of the ordinance, are incorporated by reference in this ordinance, without reproducing them in full.
- B. The following setbacks shall apply to livestock structures:
 1. Property lines.

Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from the property line if the livestock facility will have fewer than 1,000 animal units, and 200 feet from the property line if the livestock facility will have 1,000 or more animal units.

The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may

not be expanded closer to the property line.

2. Public road right-of-way

Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from public road rights-of-way if the livestock facility will have fewer than 1,000 animal units, and 150 feet from a public road right of way if the livestock facility will have 1,000 or more animal units. The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the public road right-of-way.

3. Waste Storage Structure

- a. A new waste storage structure may not be located within 350 feet of a property line, or within 350 feet of the nearest point of any public road right-of-way.
- b. Except, a single new waste storage structure may be constructed closer to the property line or public road if a new structure is:
 - 1) Located on the same tax parcel as a waste storage structure in existence before May 1, 2006.
 - 2) No larger than the existing structure.
 - 3) No further than 50 feet from the existing structure.
 - 4) No closer to the road or property line than the existing structure.
 - 5) This setback requirement *does not apply* to existing waste storage structures except that an existing structure within 350 feet of a property line or road may not expand *toward* that property line or road.

4. Waste storage structures shall comply with the General Code of Ordinances for Marathon County Chapter Chapter 11, Animal Waste and Manure Management Code.

5. At all times during the exercise of the license, the applicant shall have ownership of acreage, or shall provide to the Department copies of contracts or agreements for the spreading of manure on acreage, sufficient to comply with the most current Natural Resource Conservation Service (NRCS) Nutrient Management Standard 590 (Standard 590 is updated regularly by NRCS). All contracts or agreements will be provided at the time of application and must remain current, by April 1st of each succeeding cropping year when nutrient management plan updates are due. Agreements will indicate:

- a. Landowner name, address, and contact information
- b. Duration for which the agreement is valid
- c. Acreage of each field
- d. Field tracking that identifies each field in relation to the nutrient management plan.

6. No license will be issued where the applicant is in violation of this or any code administered by the Department, nor for any parcel(s) of land which have an outstanding violation, until the violation has been corrected, if the violation has bearing upon the license application.

Section 13.201.04 LICENSE APPLICATION

A livestock operator must complete the application form and worksheets prescribed by ATCP51, Wisconsin Administrative Code, including any authorized Department modifications. The application form and worksheets demonstrate compliance with standards in ATCP51, Wisconsin Administrative Code and this ordinance.

The operator must file four (4) duplicate copies of the application form, including worksheets, maps and documents (other than engineering design specifications) included in the application.

Section 13.201.05 FEES

A non-refundable application fee in accordance with the current department fee schedule approved by the committee payable to Marathon County shall accompany an application for the purpose of offsetting the county costs to review and process the application. In addition, fees may be set by the committee to cover annual costs to monitor the licensee for compliance and modifications to the license.

Section 13.201.06 APPLICATION PROCEDURE

- A. Pursuant to ATCP 51.30(5), Wisconsin Administrative Code, within 45 days after the Department receives an application, it shall notify the applicant whether or not the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within 14 days after the applicant provides all of the required information, the department shall notify the applicant that the application is complete. This notice of completion does not constitute an approval of the proposed livestock facility license.
- B. Pursuant to ATCP 51.30(6), Wisconsin Administrative Code, within 14 days after the Department notifies an applicant that the application is complete; the Department shall notify adjacent landowners of the application. The Department shall use the approved notice form in ATCP51, Wisconsin Administrative Code, and mail by first class mail a written notice to each owner of lands adjacent to lands owned, or rented by the applicant or lands that are otherwise controlled by the applicant for the purpose of satisfying the conditions of the license.
- C. Upon determination of completeness the Director or their designee shall provide an opportunity for a public informational hearing as follows: Any person identified in Section [13.201.06\(B\)](#) may request a public informational hearing in writing and must state in the written request why such request is being made based upon conditions covered by the proposed license. Requests based upon unrelated issues will not be considered for an informational hearing. The request must be made within 30 days of the date of the public notice specified in Section [13.201.06\(B\)](#). The hearing shall be held no sooner than 30 days nor later than 60 days after being requested. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comment from affected persons on the nature, feasibility, and effects of the proposed license. The person requesting the public informational hearing and the person applying for the license shall be notified of the time and place of the public informational hearing. All persons identified in Section [13.201.06\(B\)](#) and the Town Clerk shall also be notified of the informational hearing.
- D. Pursuant to ATCP 51.32, Wisconsin Administrative Code, the Department shall grant or deny an application within 90 days after the Department gives notice that the application is complete under paragraph (2) above. The Department may extend this time limit for good cause, including any of the following:
 1. The Department needs additional information to act on the application.
 2. The applicant materially modifies the application or agrees to an extension.

The Department shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the Department will act on the application.

Section 13.201.07 CRITERIA FOR ISSUANCE OF A LICENSE

- A. A license shall be issued if the application for the proposed livestock facility:
 1. Complies with this ordinance, and
 2. Is complete, and
 3. Contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in this ordinance, specifically Section [13.201.03](#).
- B. A license shall be denied if any of the following apply:

1. The application, on its face, fails to meet the standard for approval in the previous paragraph.
2. The Department finds, based on other clear and convincing information in the record, which the proposed livestock facility does not comply with applicable standards in this ordinance.
3. Other grounds authorized by Wis. Stats. 93.90, that warrant disapproving the proposed livestock facility.

Section 13.201.08 RECORD OF DECISION

- A. The Department must issue its decision in writing. The decision must be based on written findings of fact supported by evidence in the record. Findings may be based in part on the presumptions created by ATCP51, Wisconsin Administrative Code.
- B. Upon reaching a decision, the Department must give the applicant a duplicate copy of the application, marked “approved” or “denied” The duplicate copy must include worksheets, maps, and other documents (other than engineering specifications included in the application).
- C. The Director or their designee, as required by ATCP 51.36 ,Wisconsin Administrative Code, within 30 days of the county decision on the application, shall do all of the following:
 1. Give the Department of Agriculture, Trade, and Consumer Protection (DATCP) written notice of the county decision.
 2. File with the DATCP a copy of the final application granted or denied, if the county has granted or denied an application under this ordinance. (The copy shall include all of the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications.)
 3. If the county has withdrawn a local approval under this ordinance, file with the DATCP a copy of the county final notice or order withdrawing the local approval.

Section 13.201.09 TRANSFERABILITY OF LICENSE

A license and the privileges granted by this license run with the land approved under the license and remain in effect, despite a change in ownership of the livestock facility, as long as the operator does not violate the terms of the license.

Upon change of ownership of the livestock facility, the new owner of the facility shall file information with the Department providing pertinent information, including but not limited to such information as the name, address, contact information, date of transfer of ownership, updates related to any changes in the operation including but not limited to the employee training plan, nutrient management plan, and the emergency incident response plan, of the new owner.

A new licensee may record with the register of deeds, at the licensee’s expense, a duplicate copy of the approved application.

Section 13.201.10 EXPIRATION OF LICENSE

- A. A license remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under license, and regardless of whether the livestock operator exercises the full authority granted by the license. However, the Department shall treat a license as lapsed and withdraw the license if the license holder fails to do all of the following within 2 years after issuance of license:
 1. Begin populating the new or expanded livestock facility.
 2. Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the application for local approval.

Section 13.201.11 LICENSE TERMS AND MODIFICATIONS

A license and the privileges granted by a license issued under this ordinance are conditioned upon the livestock licensee's compliance with the standards in this ordinance, and with commitments made in the application for a license. The operator may make reasonable changes upon prior written notice and approval by the Department Director or their designee, which are compliant with the standards in this ordinance, and the Director or their designee, shall not unreasonably withhold approval. A violation of the license or a failure to comply with the commitments made in the application may result in suspension and/or termination of the license as provided in Section [13.201.10](#) or Section [13.201.13](#) of this ordinance. Any modification which exceeds the current number of animals licensed for the facility shall require a new application for license.

Section 13.201.12 COMPLIANCE MONITORING

- A. The Department shall monitor compliance with the ordinance as follows:
1. Upon notice of the livestock facility owner, view the licensed premises at a reasonable time and date to ensure that all commitments of the application and Findings of Fact, are in compliance.
 2. If the livestock facility owner refuses the Director or their designee the right to view the licensed premises, the Director may pursue enforcement action under Section [13.201.13](#).
 3. If a licensed livestock facility is found non-compliant with the commitments made in the approved application and Findings of Fact, the Director shall issue a written notice to the livestock facility owner stating the conditions of non-compliance and directing that compliance with the commitments of the approved application and Findings of Fact occur within a reasonable amount of time stated in the written notice.
 4. If license conditions are not met by the deadline described in the written notice, further enforcement action may be taken as set forth below.

Section 13.201.13 ENFORCEMENT/PENALTIES

- A. Any person who violates any of the provisions of this ordinance, or who fails, neglects, or refuses to comply with the provisions of this ordinance, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be subject to the following penalties.
1. Citation of not less than \$5 nor more than \$500 for each offense, plus the applicable surcharges, assessments and costs for each violation.
 2. Pursue a long form summons and complaint through a court of law.
 3. Upon conviction by a court of law, pay a forfeiture of not less than \$500 nor more than \$5,000, plus the applicable surcharges, assessments and costs for each violation.
 4. Each day a violation exists or continues shall be considered a separate offense under this ordinance.
 5. In addition, the Director may seek injunctive relief from a court of record to enjoin further violations.
 6. In addition, the Department may suspend or revoke the approval of a license under this ordinance after notice to the livestock facility owner.
- B. The Director or their designee shall exercise sound judgment in deciding whether to suspend or revoke a license.

- C. In addition to any other penalty imposed by this ordinance, the cost of abatement of any public nuisance on the licensed premises by the County may be collected under this ordinance or Wis. Stats. 823.06 against the owner of the real estate upon which the public nuisance exists. Such costs of abatement may be recovered against the real estate as a special charge under Wis. Stats. 66.027 unless paid earlier.

Section 13.201.14 APPEALS

- A. Purpose: The purpose of this section is to provide guidelines for appealable matters.
- B. In addition to other appeal rights provided by law, Wis. Stats. 93.90(5), provides that any “aggrieved person” may request review by the Livestock Facility Siting Review Board of any decision by the Department in connection with a license application. An “aggrieved person” may challenge the decision on the grounds that the county incorrectly applied the standards under this ordinance or violated Wis. Stats. 93.30.
1. An “aggrieved person” under this section as defined in Wis. Stats. 93.90(5) means a person who applied to the Department for approval of a livestock siting or expansion license, a person who lives within 2 miles of the livestock facility that is proposed to be sited or expanded, or a person who owns land within 2 miles of a livestock facility that is proposed to be sited or expanded.
 2. An “aggrieved person” may request review of any decision of the Director or any decision or action by the Committee.
 3. Any appeal brought under this section must be requested within 30 days of the Department approval or disapproval or within 30 days after the decision on appeal before the Committee
 4. Any appeal to the State Livestock Facility Siting Review Board shall comply with Wis. Stats. 93.90 and administrative rules of said board
- C. Decisions by the Director or their designee to issue an enforcement demand (eg. stop work order, abatement order, suspension, revocation or non-compliance notice) are appealable to the Board of Adjustment as an administrative appeal as set forth in Chapter 17, Marathon County Zoning Code, Section [17.804](#).

Section 13.201.15 SEVERABILITY

If any provision of this ordinance or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to that end, the provisions of this ordinance are severable.

Title 3: DEFINITIONS

Chapter 13.301

Definitions

Section 13.301 DEFINITIONS

Adjacent. Located on land parcels that touch each other, or on land parcels that are separated only by a river, stream, or transportation or utility right-of-way.

Affected Neighbor. For purposes of the odor score calculation under s. ATCP 51.14, a residence or high-use building located within 2,500 feet of any livestock structure at a proposed livestock facility. “Affected neighbor” does not include a residence or high-use building owned by any of the following:

- a. The livestock facility operator.
- b. A person who affirmatively agrees to have the residence or high-use building excluded from the odor score calculation under s. ATCP 51.14.

Note: The odor score calculation under s. ATCP 51.14 is based, in part, on the proximity and density of “affected neighbors.”

Animal Lot. A feedlot, barnyard or other outdoor facility where livestock are concentrated for feeding or other purposes. “Animal lot” does not include a pasture or winter grazing area. Two or more animal lots at the same livestock facility constitute a single animal lot, for the purposes of this chapter, if runoff from the animal lots drain to the same treatment area under s. ATCP 51.20(2) or if runoff from the animal lot treatment areas converges or reaches the same surface water within 200 feet of any of those treatment areas.

Animal Unit. The meaning that was given in s NR 243.03(3).

BARNY Model. means the NRCS “Evaluation System to Rate Feedlot Pollution Potential,” ARM-NC-17 (April 1982 version with modifications as of August 2005).

Note: The BARNY model is a commonly used computer model that predicts nutrient runoff from animal lots. Copies of the BARNY model are on file with the department, the secretary of state and the legislative reference bureau. An Excel computer spreadsheet version is available at www.datcp.state.wi.us.

Certified Agricultural Engineering Practitioner. An agricultural engineering practitioner who is certified under s. ATCP 50.46 with a rating under s. ATCP 50.46(5) that authorizes the practitioner to certify every matter that the practitioner certifies under this chapter.

Cluster. Any group of one or more livestock structures within a livestock facility.

Committee. A committee established by the Marathon County Board of Supervisors which, by authority from Chap. 92 Wisconsin Statutes, determine policy and give direction for soil and water conservation activities. The Environmental Resources Committee also provides direction for the Department. The Environmental Resources Committee shall be the decision making board for purposes of this ordinance.

Complete Application for local approval. An application that contains everything required under s. ATCP 51.30(1) to (4).

Concentrated Animal Feeding Operation (CAFO). An animal feeding operation to which any of the following apply:

- 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 applied manure or process wastewater.
- The operation has 300 to 999 animals units and has a category I unacceptable practice under s. NR 243.24(1)(a).

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

Department. Means the Marathon County Conservation, Planning, and Zoning Department.

Expanded Livestock Facility. The entire livestock facility that is created by the expansion, after May 1, 2006 of an existing livestock facility. Includes all livestock structures in the expanded facility, regardless of whether those structures are new, existing, or altered.

Expansion. An increase in the largest number of animal units kept at a livestock facility on at least 90 days in any 12-month period. The acquisition of an existing livestock facility, by operator of an adjacent livestock facility, does not constitute an “expansion” unless that operator increases the largest number of animal units kept at the combined livestock facilities on at least 90 days in any 12-month period.

Note: See s. ATCP 51.04

Findings of Fact. The summary of Marathon County Conservation Planning and Zoning Department review and decision to either approve or deny a Livestock Facility License application on the merits based on the department’s evaluation and determination of relevant evidence.

High-Use Building. Any of the following buildings:

- A residential building that has at least 6 distinct dwelling units.
- A restaurant, hotel, motel or tourist rooming house that holds a permit under s. 254.64 Stats.
- A school classroom building.
- A hospital or licensed care facility.
- A non-farm business or workplace that is normally occupied, during at least 40 hours of each week of the year, by customers or employed workers.

Livestock. Domestic animals traditionally used in this State in the production of food, fiber or other animal products. “Livestock” includes cattle, swine, poultry, sheep, and goats. “Livestock” does not include equine animals, bison, farm-raised deer, fish, captive game birds, ratites, camelids or mink.

Livestock Facility. A feedlot, dairy farm or other operation where livestock are, or will be, fed, confined, maintained or stabled for a total of 45 days or more in any 12-month period. A “livestock facility” includes all of the tax parcels of land on which the facility is located, but does not include a pasture or winter grazing area. Related livestock facilities are collectively treated as a single “livestock facility” for the purposes of this chapter, except that an operator may elect to treat a separate species facility as a separate “livestock facility”.

Note: See definition of “related livestock facilities” and “separate species facility”.

Livestock Structure. A building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility. “Livestock structure” includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. “Livestock structure” does not include a pasture or winter grazing area, a fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.

Local Approval. An approval, required by local ordinance, or a new or expanded livestock facility. “Local approval” includes a license, permit, special exception, conditional use permit or other form of local authorization. “Local approval” does not include any of the following.

- An approval required by a political subdivision within the scope of its authority under Wis. Stats. 59.692, 59.693, 60.627, 61.351, 61.354, 62.231, 62.234 or 87.30.

Note: See Wis. Stats. 93.90(3)(a)3. The statutes listed in par. (a) pertain to shoreland zoning, floodplain zoning, construction site erosion control and stormwater management.

Local Ordinance or Local Code. An ordinance enacted by a political subdivision.

Manure. Excreta from livestock kept at a livestock facility. “Manure” includes livestock bedding, water, soil, hair, feathers, and other debris that becomes intermingled with livestock excreta in normal manure handling operations.

Minor Alteration of a livestock structure. A repair or improvement in the construction of an existing livestock structure that does not result in a substantially altered livestock structure.

Nutrient Management Plan. A document that is annually updated outlining the requirements for managing the amount (rate), source, placement (method of application), and timing of applications of all source of plant nutrients to cropland and pastures as identified in ATCP 50.04(3).

New Livestock Facility. A livestock facility that will be used as a livestock facility for the first time, or for the first time in at least 5 years. “New livestock facility” does not include an expanded livestock facility if any portion of that facility has been used as a livestock facility in the preceding 5 years.

Operator. A person who applies for or holds a local approval for a livestock facility.

Pasture. Land on which livestock graze or otherwise seek feed in a manner that maintains the vegetative cover over all of the grazing or feeding area. Pastures may include limited areas of bare soil such as cattle lanes and supplemental feeding areas provided the bare soil areas are not significant sources of pollution to waters of the state.

Person. An individual, corporation, partnership, cooperative, limited liability company, trust or other legal entity.

Populate. To add animal units for which local approval is required.

Property Line. A line that separates parcels of land owned by different persons.

Related Livestock Facilities. Livestock facilities that are owned or managed by the same person, and related to each other in at least one of the following ways:

- a. They are located on the same tax parcel or adjacent tax parcel of land.

Note: A mere acquisition of a neighboring livestock facility does not constitute an “expansion” unless more animal units are added to the combined facilities. See definition of “Expansion”.

- b. They use one or more of the same livestock structures to collect or store manure.
- c. At least a portion of their manure is applied to the same landspreading acreage.

Separate Species Facility. A livestock facility that meets all of the following criteria:

- a. It has only one of the following types of livestock, and that type of livestock is not kept on any other livestock facility to which the separate species facility is related under the definition of “Related Livestock Facilities”.

1. Cattle
2. Swine
3. Poultry
4. Sheep
5. Goats

Note: For purposes of par. (a), cattle and poultry are different “types” of livestock, but dairy and beef cattle are livestock of the same “type” (“cattle”). Milking cows, heifers, calves and steers (all “cattle”) are livestock of the same “type”. Turkeys, ducks, geese and chickens are livestock of the same “type” (“poultry”).

- b. It has no more than 500 animals.
- c. Its livestock housing and manure storage structures, if any, are separate from the livestock housing and

manure storage structures used by livestock facilities to which it is related.

d. It meets one of the following criteria:

1. Its livestock housing and manure storage structures, if any, are located at least 750 feet from the nearest livestock housing or manure storage structure used by a livestock facility to which it is related.
2. It and the other livestock facilities to which it is related have a combined total of fewer than 1,000 animal units.

Site that is susceptible to groundwater contamination. Any of the following:

- a. An area within 250 feet of a private well.
- b. An area within 1,000 feet of a municipal well.
- c. An area within 300 feet upslope or 100 feet downslope of a karst feature.
- d. A channel with a cross-sectional area equal to or greater than 3 square feet that flows to a karst feature.
- e. An area where the soil depth to groundwater or bedrock is less than 2 feet.
- f. An area where none of the following separates the ground surface from groundwater and bedrock:
 1. A soil layer at least 2 feet deep that has at least 40% fine soil particles.
 2. A soil layer at least 3 feet deep that has at least 20% fine soil particles.
 3. A soil layer at least 5 feet deep that has at least 10% fine soil particles.

Note: See s. NR 151.015(18).

Substantially Altered. A livestock structure that undergoes a material change in construction or use, including any of the following material changes:

- a. An increase in the capacity of a waste storage facility.
- b. The addition of a liner to a waste storage facility.
- c. An increase of more than 20% in the area or capacity of a livestock structure used to house, feed or confine livestock, or to store livestock feed.
- d. An increase of more than 20% in the number of animal units that will be kept in a livestock structure on at least 90 days in any 12-month period.

Unconfined Manure Pile. A quantity of manure at least 175 cubic feet in volume that covers the ground surface to a depth of at least 2 inches, but does not include any of the following:

- a. Manure that is confined within a manure storage facility, livestock housing structure or barnyard runoff control facility.
- b. Manure that is covered or contained in a manner that prevents storm water access and direct runoff to surface water or leaching of pollutants to groundwater.

Waste. Manure, milking center waste and other organic waste generated by a livestock facility.

Waste Storage Facility. One or more waste storage structures. "Waste storage facility" includes stationary equipment and piping used to load or unload a waste storage structure if the equipment is specifically designed for that purpose and is an integral part of the facility. "Waste storage facility" does not include equipment used to apply waste to land.

Waste Storage Structure. A waste storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. "Waste storage structure" does not include equipment used to apply waste to land. For purposes of ss. ATCP 51.12(2) and 51.14, "waste storage structure" does not include any of the following.

- a. A structure used to collect and store waste under a livestock housing facility.
- b. A manure digester consisting of a sealed structure in which manure is subjected to managed biological decomposition.

Winter Grazing Area. Cropland or pasture where livestock feed on dormant vegetation or crop residue, with or without supplementary feed, during the period October 1 to April 30. “Winter grazing area” does not include any of the following:

- a. An area, other than a pasture, where livestock are kept during the period from May 1 to September 30.
- b. An area which at any time has an average of more than 4 livestock animal units per acre.
- c. An area from which livestock have unrestricted access to navigable waters of the state, such that the livestock access prevents adequate vegetative cover on banks adjoining the water.
- d. An area in which manure deposited by livestock causes nutrient levels to exceed standards in s. ATCP 51.16.

WPDES Permit. A Wisconsin Pollutant Discharge Elimination System permit issued by DNR under Wisconsin Administrative Code NR 243.