



April 9, 2021

**TO:** Mike Gilbertson, Water Resources Management Specialist  
**FROM:** Jeff Lyon, General Manager  
**RE:** NR 151, Economic Impact Analysis, WT-19-19

Sent via email: [DNRAAdministrativeRulesComments@wisconsin.gov](mailto:DNRAAdministrativeRulesComments@wisconsin.gov)

FarmFirst Dairy Cooperative, based in Madison, Wisconsin provides milk marketing opportunities through our Family Dairies USA division, milk test verification services for members shipping milk to proprietary milk processors, and milk testing for dairy processors and their patrons through our lab Fox Valley Quality Control Lab in Kaukauna, Wisconsin. We also advocate for our members on legislative and regulatory issues that will affect their dairy farms.

On behalf of our more than 3,200 members located throughout Wisconsin, I appreciate the opportunity to provide comments and our concerns with the Economic Impact Analysis (EIA) and proposed rule changes to NR 151 which relates to agricultural runoff and non-point performance standards.

All dairy farmers will be affected by the proposed rule, but the cost of complying will fall heavily on smaller operations, who generally have less available storage or only short term storage and rely more on the daily or the regular hauling of manure throughout the year. The vast majority of larger operations already have long term (one-year) manure storage. Although they too will have significant costs to comply.

With the proposed rule effectively requiring more long term manure storage, the DNR is continuing to limit the time frame (the spring) when manure can be spread which creates the opportunity for catastrophic runoff and leaching events caused by significant rains.

Further, by effectively prohibiting the spreading of manure after September 1, issues may occur in years when we have significant precipitation in the late fall and winter and storage facilities reach capacity and need to be emptied so they do not overflow. This will require the application of manure on soils that may be susceptible to runoff at that time of year.

While there are options (i.e. planting cover crops in order to spread manure) that will allow for the spreading of manure after September 1, the fact is that to be on the safe side dairy farmers will have to invest in or add to their long term manure storage.

We are concerned that the proposed rule will contribute to the acceleration of dairy farms leaving the dairy business because many will be financially unable or reluctant to take on additional costs to build manure storage. This will increase the concentration of dairy cows on fewer farms.

Even with cost sharing, the DNR's estimated costs to dairy farmers for manure storage is underestimated. DNR's assumption that the cost for new manure storage is \$500 per animal unit is based on six months storage plus another three months of storage at most and is not realistic as dairy farmers and their lenders will opt for manure storage capacity of at least one year.

The \$500 per animal unit number might work for expanding an already existing storage facility but it is difficult to expand current storage without damaging the current structure. Often times manure storage cannot be expanded and has to be closed. Additionally, recent updates of the design and construction standards in NRCS 313 the Waste Facility Technical Standards, have increased the cost of building a storage facility. One can expect that cost to increase over the next 10 years.

In February 2021, the average sized dairy operation in Wisconsin was 183 cows (Dairy Farmers of Wisconsin) or just over 256 animal units. Using Snap Plus data from the University of Wisconsin-Madison, one animal unit produces 8,343 gallons of manure per year or 2,137,476 gallons per year. Using an extremely conservative cost of \$225,000 to build 1,000,000 gallons of storage for a year, the total cost would be more than \$480,000 with the dairy farmer being responsible for more than \$144,000 (30% cost share). The EIA does not state the average sized Wisconsin dairy farm but clearly DNR used a smaller number to project a \$30,000 cost per farm (200 farms estimated) and a \$6 million total cost to dairy farmers over a 10 year period.

The proposed rule allows for “one” application of manure after September 1 at 25 percent or less of the rate normally allowed, yet the EIA does not account for the additional costs that dairy farmers will incur having to haul manure farther distances and some may have to purchase or rent additional land to comply. FarmFirst believes performance standards should be creating opportunities to spread manure, more often at lower rates on targeted soils.

DNR correctly states that cost share funding is available to dairy farmers not under CAFO rules that are offered cost sharing with 70 percent coming from the state and 30 percent from the farmer. CAFOs are ineligible to receive cost sharing and must foot the entire cost.

What the EIA does not reflect is that the state cost share program has historically been underfunded and the state has had a difficult time coming up with their 70 percent, which is why the DNR is able to come in with a projected estimated cost of \$9.726 million over the 10-year implementation period of the rule. By coming in just below the \$10 million threshold over the implementation period, the DNR is attempting to avoid greater oversight from the legislature and an independent economic review.

To meet the goals of proposed rule, a large infusion of funding or bonding will be needed in order to fund the program which will bring the cost well over the \$10 million threshold. If there is additional funding, the DNR needs to remember that dairy farmers still have to come up with 30 percent of the cost if they are not CAFOs and the full cost if they are a CAFO, which is significant for all dairy farmers. FarmFirst is supportive of additional funding.

Lastly, the annual nitrogen leaching limit of under 2.2 pounds per acre per inch of groundwater recharge is confusing since there is not a reliable nitrogen index for farmers to use to determine if they are meeting the performance standard. Cropping rotations, cover crops and other practices can help a dairy farmer meet the standard but there is no way to know until there is a nitrogen index.

I appreciate the opportunity to provide comments on the EIA and the proposed rule. My members recognize the importance of maintaining and improving water quality in the state as it is critical to their livelihood, however the EIA and the proposed rules before us today needs to be revised to accurately account for the increased costs to the dairy industry before it goes to the DNR citizens board for approval to go to hearing.

We look forward to working with the DNR for solutions that work for dairy farmers and the environment. Please contact me with questions.