



Post-Construction & Evaluations for
Large CAFO Reviewable Facilities & Systems
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DESCRIPTION: A "reviewable facility or system" for a "large concentrated animal feeding operation" (Large CAFO) is subject to review of plans and specifications (P&S) by the Department of Natural Resources (DNR) under ch. NR 243, Wis. Adm. Code, prior to construction.^{1,2} The same rule also requires Post-Construction and Evaluation of reviewable facilities and systems, as described below. This document summarizes the rule requirements, and provides recommendations, to assist Large CAFO owners and their representatives in preparing Post-Construction and Evaluation submittals. Also described are the DNR procedures for response to Post-Construction and Evaluation submittals, based on when construction occurred (relative to the CAFO Permit status & the plans & specifications approval status).

Post-Construction is required if construction occurred after DNR approved P&S for the project. Requirements are ins. NR 243.15(10), Wis. Adm. Code, and may be addressed in approval or permit conditions. The owner must submit Post-Construction within 60 days after construction is complete to document that the project was constructed in accordance with the approved plans or approved modifications to the plans.

Evaluation is required if there was no DNR approved P&S for the project (see #1-#3, below); or there is reason to believe a facility or system is not functioning properly (see #4, below); or an existing facility or system will be expanded (see #5, below). Requirements are ins. NR 243.16, Wis. Adm. Code, and may be addressed in approval or permit conditions. The owner must submit evaluations for the following reasons:

- Non-Approved Facility or System: A facility or system that was constructed without P&S approval by the DNR is required to be evaluated prior to use by a Large CAFO, including as follows:
 - #1 New Large CAFO: When a livestock operation initially becomes subject to Large CAFO requirements (e.g. by expanding to 1000 animal units or more, or applying for a CAFO WPDES Permit) the owner is required to submit an evaluation of the existing reviewable facilities and systems (at all production area sites being used).
 - #2 Large CAFO Constructs Without P&S Approval: When a reviewable facility or system is constructed for a Large CAFO and the P&S were not approved by the DNR (and also were not statutorily approved), the Large CAFO owner is required to submit an evaluation of the new facilities and systems prior to use (e.g. construction is started before DNR approval is issued).
 - #3 Large CAFO Newly Acquires Site: When a site is newly acquired by a Large CAFO, the Large CAFO owner is required to evaluate the newly acquired facilities and systems prior to use. (Common example: A Large CAFO acquires use of a satellite farm site.)
 - #4 Approved Facility or System Performance Concerns: The DNR approved the P&S for a Large CAFO's reviewable facility or system prior to construction, but there is reason to believe the facility or system is not in compliance with applicable rules and standards.
 - #5 Non-Approved or Approved Facility or System Expansion: Before expanding an existing facility or system, it needs to be evaluated. (If it was recently constructed to meet current NRCS standards, and an approval was obtained prior to construction, further evaluation may not be needed.)

FOOTNOTES:

- 1 "Reviewable facility or system" is defined ins. NR 243.03(56), Wis. Adm. Code.
- 2 "Large concentrated animal feeding operation" is defined ins. NR 243.03(31), Wis. Adm. Code. Once a livestock operation owner has submitted a Large CAFO WPDES Permit Application to DNR, the owner may not construct a reviewable facility or system unless the P&S for the project have been approved by the DNR. If a livestock operation has 1,000 AUs or more, the operation is subject to ch. NR 243, even if the owner has not applied for a Large CAFO WPDES Permit.

SUBMITTAL REQUIREMENTS: Always include owner contact information, DNR permit number (if a permit has been issued), and preparer contact information.

Post-Construction is an as-built record, with a qualified professional's certification that construction was in accordance with applicable standards and rules, and approved P&S (including any approval conditions).³

Submittal requirements and recommendations are as follows (italicized text is recommendations):

- Statement that construction complied with the approved P&S and applicable design standards; and scaled as-built drawings.

The Post-Construction submittals are to include the following:

- *DNR Project Number(s) (ex: R-2011-0204) for the approved P&S.*
- *Summary of any changes from the approved plans and specifications.*
- *How each approval condition (if any) was met.*
- *Revised drawings*
- *Document that the approved construction inspection plan was followed.*
- *Photos taken during construction.*
- *Sample batch tickets for concrete loads (1 representative batch ticket per day).*
- *Soil test pit or boring logs (if applicable).*

Evaluation is a record of current condition and performance, with a qualified professional certification.³

Because the DNR did not review and approve the design, or there are specific performance concerns, an Evaluation is typically more rigorous than Post-Construction. Submittal requirements and recommendations are as follows (italicized text is recommendation & explanation):

- A narrative providing general background and operational information on the facilities and systems.
The DNR recommends the narrative include the following:
 - *repairs, modifications and maintenance history; and*
 - *adequacy of scour protection for in-place and clay lined storage facilities.*
- Available Post-Construction (*also see section above*) and date of construction, accompanied by a qualified professional certification of the assessment of ability to meet all of the following:
 - production area requirements in s. NR 243.13;
 - adequate storage in s. NR 243.14 (9);
 - accepted management practices; and
 - applicable design requirements ins. NR 243.15 (includes well setback; assessment of need for waste storage facility secondary surface containment & monitoring; & NRCS standards).
- The DNR recommends assessment of ability to meet the above rule requirements (NR 243.13; 243.14(9), and NR 243.15) include all the information normally required for P&S, including the following:
 - *identification of applicable specifications.*
 - *site and detail drawings; show locations of wells, surface waters, drainage paths and locations of. Soil test pits/borings (old & new), show permanent markers (180 days, MOL, & level of safety);*
 - *available soil test pit or boring logs; and*
 - *field verification of each item for which Post-Construction documentation is not available.*
- Proposed actions needed to address concerns (if any) identified in the evaluation. *No action is normally needed if the Evaluation indicates current performance requirements are met, and the design meets design standards and rules that would have applied to a Large CAFO at the time of construction (presuming good condition). In-place or clay lined storage designed in accordance with NRCS 313 for ≤300,000 cu ft. storage volume (& annual manure production) may need upgrade or replacement, because it is unlikely to meet recent past design requirements and current performance requirements.*

FOOTNOTES:

- ³ Certification must be by either a professional engineer registered in the State of Wisconsin, or a public sector employee with NRCS job approval authority for the facility or system type & size being addressed.

SUBMITTAL TYPE & DNR PROCEDURES: The following table shows the submittal type required, based on when construction occurred (relative to CAFO Permit status & DNR approval of P&S) and identifies the corresponding DNR procedure for review and follow up.

When Construction Occurred	After P&S approval & after permit application (or after permitted)	Prior to (without) P&S approval, but before $\geq 1,000$ AUs (& before permit application)	Prior to (without) P&S approval, but after $\geq 1,000$ AUs (or after permit application, or after permitted)
Submittal Type	Post-Construction	Evaluation -may be based on: #1 New Large CAFO; #3 Large CAFO Newly Acquires Site; #4 Approved Facility or System Performance Concerns; or #5 Proposed Expansion of Existing Facility or System	Evaluation -may be based on: #2 Large CAFO Constructs without P&S Approval; #4 Approved Facility or System Performance Concerns; or #5 Proposed Expansion of Existing Facility or System
DNR Standard Response Procedure	Acknowledgement letter	Preliminary review & decision letter (compliant or non-compliant) ⁴	Full review & comment letter ⁴ Reject P&S (if submitted) because P&S can't be approved if construction has commenced
DNR Additional (Optional) Response Procedures, Coordinated with Region	<p>If concerns, perform preliminary or full review:</p> <p>If concerns are addressed, no further action needed (or a file memo or letter may be used to describe review results).</p> <p>If concerns are not addressed, issue non-compliant letter. (If the owner later demonstrates compliance, issue a compliant letter.)</p>	<p>If concerns, perform full review, & issue decision letter (compliant or non-compliant):</p> <p>If concerns are not addressed, issue non-compliant letter. (If the owner later demonstrates compliance, issue a compliant letter.)</p>	<p>Enforcement:</p> <p>Issue NON (whether P&S were submitted or not).</p> <p>Consider NOV if permit not applied for.</p>
<p>Non-Compliant Letter: A non-compliant letter explains what the owner must do to come into compliance (additional information the owner must submit, or actions the owner must take). The DNR may also take any of the following actions (in addition to, or combined with, the non-compliant letter):</p> <ul style="list-style-type: none"> ➤ Issue a Permit Modification; ➤ Issue a Notice of Noncompliance or Notice of Violation; ➤ Refer case to Wisconsin Department of Justice. 			

FOOTNOTES:

- 4 The Evaluation must propose actions to modify (or mitigate) concerns if compliance isn't demonstrated with:
- current performance requirements, and
 - either current design requirements, or design standards and rules that would have applied to a Large CAFO at the time of construction.
 - Appropriate actions must be determined on a case specific basis, but may include:
 - operational changes;
 - groundwater monitoring; or
 - upgrade, or replacement (if significant design deficiencies).

FOR MORE INFORMATION:

- Visit our Agricultural Runoff Management webpage, <http://dnr.wi.gov/topic/AgBusiness/CAFO>
- Find plan review staff on our Contacts webpage, <http://dnr.wi.gov/topic/AgBusiness/CAFO/contacts.html>
- Call the Bureau of Watershed Management, (608) 267-7694.

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EQUAL OPPORTUNITY EMPLOYER: The Wisconsin Department of Natural Resources provides equal opportunity in its employment, programs, services, and functions under an Affirmative Action Plan. If you have any questions, please write to Equal Opportunity Office, Department of Interior, Washington, D.C. 20240.

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