



Protect Your Community from Animal Factory Pollution: A guide to keeping factory farms out of your county

Iowa is home to thousands of Concentrated Animal Feeding Operations, or CAFOs, that concentrate animals and their waste. The manure produced is mixed with water in enormous lagoons or pits, creating disposal problems and water and air pollution on a scale that would never have been possible in a diversified family farm system.

Manure spills are regularly reported in Iowa. Some of those spills pollute rivers and kill fish. Groundwater pollution is also a serious problem; well water contaminated with nitrates from animal waste can result in methemoglobinemia, or “blue baby syndrome.”

Air pollution from these factory farms, including toxic hydrogen sulfide and ammonia, destroys the quality of life in many of Iowa’s rural communities, devastates property values of rural homes, and threatens public health.

Construction Permits for Confined Animal Feeding Operations

A confinement operation is a CAFO that consists of large buildings that are used to house animals raised for meat, produce eggs or milk. The animals spend their entire lives in the buildings or being transported between buildings; they do not go outside for fresh air or to eat.

CAFOs above the following thresholds are required to get a construction permit which allows the CAFO to be built and to operate:

Category	Equivalency factor	Threshold number of animals for requiring a construction permit
Slaughter and feeder cattle	1	1000
Immature dairy cattle	1	1000
Mature dairy cattle	1.4	714
Butcher or breeding swine weighing more than 55 pounds	0.4	2500
Swine weighing 15 pounds but not more than 55 pounds	.1	10,000
Sheep or lambs	.1	10,000
Horses	2	500
Turkeys weighing 7 pounds or more	.018	55,555
Turkeys weighing less than 7 pounds	.0085	117,647
Broiler or layer chickens weighing 3 pounds or more	.01	100,000
Broiler or layer chickens weighing less than 3 pounds	.0025	400,000

An animal unit is determined by looking at the category and multiplying the equivalency factor by the number of animals that are going to be housed at one time in the CAFO.

Construction permits are required for any proposed CAFOs over the threshold. If more than one CAFO building is constructed on a property, the animals in all of the buildings are counted in order to determine if the CAFO needs a construction permit.

The CAFO is allowed to be built without a construction permit if it falls below the threshold.

If you are concerned about CAFOs, keep an eye on the public notices published in your local newspaper. Each county has at least one newspaper that publishes county notices. Counties that have adopted the Matrix are required to issue public notice of all Matrix applications within 14 days of receipt of the application. Your county may also publish them on its website so regularly check the Board of Supervisors' website.

The Master Matrix

A construction permit is granted by the Iowa Department of Natural Resources (DNR), but there are several steps that must be taken before the permit is issued.

One step is to determine if the county has adopted the Master Matrix process. Although the county does not have to agree to use the master matrix, it is to the advantage of the public for the county to agree to it. Check the Iowa Department of Natural Resources (DNR) webpage to determine if your county has adopted the matrix for the current year. You will find a map of counties that have adopted the matrix. The DNR web address is found at

www.iowadnr.gov/Environment/LandStewardship/AnimalFeedingOperations/Confinements/ConstructionRequirements/Permitted/MasterMatrix.aspx.



Photo courtesy: Bob Nichols, USDA NRCS

The master matrix consists of a list of questions and a determination of points that are awarded based on the answers. The Matrix is a 44-question scoring system with point allocations in three categories: water, air, and community impacts. Applicants must obtain a minimum overall score of 440 out of 880 possible points, with at least 53.38 "air" points, 67.75 "water" points, and 101.13 "community impacts" points. The owner must have at least half of the available points for DNR to issue a construction permit.

CAFOs constructed before April 1, 2002, the CAFO are allowed to expand to 1,666 animal units without submitting a Matrix application.

The Matrix process was intended to give counties more local control, but the scoring system is lax. A county's recommendation does **not** have to follow the results of the Matrix application, but the DNR's final decision is based solely on compliance with the state's CAFO regulations and the Matrix score. If a CAFO proposal meets both requirements, the DNR must issue the permit regardless of county or public opposition.

The Matrix process is so complex that many county officials do not fully understand their responsibility to carefully analyze Matrix applications for accuracy, what is required for each step of the process and the time-frame allotted for each step. Failure to follow the steps will result in a CAFO being permitted when the Supervisors did not intend it to be given a permit. On the other hand, in some counties, the oversight amounts to little more than a rubber-stamped approval.

Clearly, a bias exists throughout the permitting process that favors the permit applicant over the public interest. You need to follow the procedures very carefully if you are to successfully oppose the building of a CAFO.

County Supervisors Must Adopt Master Matrix Every January

The County Board of Supervisors must adopt a resolution to use the Master Matrix and must send a copy of the resolution to the Iowa Department of Natural Resources every January. Counties that do adopt the Matrix are allowed to use it for the next 12 months, from February 1 and through January 31. The Iowa Association of Counties

**Sierra Club Iowa Chapter, 3839 Merle Hay Road, Suite 280, Des Moines, Iowa, 50310. 515-277-8868
Email: iowa.chapter@sierraclub.org Web: www.sierraclub.org/iowa Facebook: Iowa Chapter Sierra Club**

can provide assistance to the supervisors concerning the Master Matrix. The Association's website includes a draft resolution.¹

There are several advantages to adopting the Matrix:

- The county is allowed to submit a formal recommendation about the application for a construction permit.
- A county employee can accompany the DNR staff when they perform the site inspection.
- The county can appeal the DNR's decision to approve a construction permit to the Environmental Protection Commission (EPC).

If your county does not adopt the matrix, it can submit comments to the DNR, but those comments will have less weight than a formal recommendation. Without adopting the matrix, the county cannot bring county staff for the site inspection with the DNR. In addition, the county would not be allowed to appeal the DNR's decision to the Environmental Protection Commission.

The ability to appeal the approval of a construction permit is key since the neighbors are not considered parties to the appeal and the only entity that can make the appeal is the Board of Supervisors.

You, as citizens, can encourage your Supervisors to approve a resolution every year adopting the Master Matrix.

What you can do once the County is given a CAFO Construction Permit application:

A county has 30 days after receiving an application to make a permit recommendation to the DNR. In addition to the Matrix scoring sheets, the application will include design materials, manure management plans and maps of the spread fields.

Once an application is submitted, you can do the following:

- Counties that have adopted the Matrix are required to issue public notice of all Matrix applications within 14 days of receipt.
- Ask your board of supervisors to hold a public hearing about the CAFO construction permit application. **Counties are not required to hold a public hearing.**
- Obtain copies of the Matrix application and the Manure Management Plan – both are public record -- from your county supervisors.
- Find out whether the county has scheduled a public hearing; if not, request one or find out to whom to submit comments and by when.
- Ask your county official in charge of Matrix applications what assessment is planned to check the application for accuracy. If you do not know who official in charge of Matrix applications is, ask the supervisors.
- Much research is required for new construction permit applications, but it is also essential to build as much community opposition to the proposed factory farm as possible. Get the word out – talk to your neighbors, have an information and planning meeting and find other people willing to present or write comments and research the construction application.²
- Ask the applicant to reconsider building the CAFO. There are some applicants who choose not to proceed when they are visited by their neighbors who oppose the CAFO.
- Encourage local landowners to refuse to accept manure from the proposed CAFO. It will help if you can demonstrate there will not be enough land available to dispose of all the waste.



Photo Courtesy: Jeff Vanuga, USDA NRCS

¹The Iowa Association of Counties webpage is www.iowacounties.org/.

² Bear in mind that the CAFO owner will have hired professionals to calculate the matrix, design the CAFO buildings, and prepare the manure management plan. These activities may take several years to complete before the application is made to the supervisors. Also owners of the spread fields have already been contacted prior to the application.

- You may need to consult an attorney to assist you in evaluating the application.
- Look for any and all possible violations of the state's CAFO regulations in the materials submitted to the supervisors:
 - Carefully examine the Matrix application; look for wrongly claimed points, especially if the applicant barely achieves the minimum overall points or the minimum required points in any one category.
 - Carefully check the Manure Management Plan for wrongly calculated land areas and manure application rates. Also, determine if the spread fields list the correct legal descriptions.
 - If the applicant claims Matrix points related to separation distances between their confinements and manure application land and nearby streams, homes and public areas, check these separation distances using county maps. You can obtain maps from the county assessor or auditor.
 - Check the applicant's separation distance from the nearest protected waterway. A list of these waters can be accessed from the DNR's Master Matrix webpage at www.iowadnr.gov/Environmental-Protection/Animal-Feeding-Operations/AFO-Construction-Permits#Master-Matrix-364
 - Some applicants assume they are eligible for the Family Farm Tax Credit (question 23). This only applies to farms of 10 acres or more so check it out if someone claims those points. This property information is available at your County Assessor's office or website.
 - Determine If the CAFO will be in a 100-year floodplain. Unfortunately, many 100-year floodplains are not yet mapped in Iowa. In the meantime, if a proposed CAFO site is on alluvial, (river-deposited) soils, the DNR must make a floodplain determination. To find out the locations of Iowa's alluvial soils, contact the DNR-Iowa Geological Survey or visit your county NRCS office to see local soil surveys.
 - Find out if there might be endangered or threatened species in the area that could be impacted by air, water, dust or noise pollution from the proposed CAFO. Start by checking <https://ecos.fws.gov/ecp/report/species-listings-by-state?stateAbbrev=IA&stateName=iowa&statusCategory=Listed>
- Talk to your supervisors before they vote to share your assessment of the Matrix application.
 - Get your county supervisors on your side!
 - Ask the supervisors to contact the Iowa State Association of Counties and the Iowa DNR so they know how to correctly proceed.
 - Ask that the supervisors invite the county attorney to attend the meeting where they will be making the decision. The steps in recommending a denial of a construction permit application are tricky and must be strictly and correctly followed.
- Alert your county attorney that a construction permit for a CAFO has been submitted. Ask for his or her attendance at the supervisors' meeting.
- Write letters to the editor. Ask to submit an opinion piece to your local newspaper.
- Contact the media and share issues related to the proposed location.
- Submit comments or rally at a public hearing to give your county the reasons they need to recommend against the permit.
- The supervisors will vote to recommend that the permit be approved or will recommend that the permit be denied. The supervisors have 30 days to make the decision, starting the day the application was submitted to the county auditor.
- Thank the supervisors who supported you.
- If the Supervisors vote to deny the permit, keep your county supervisors on your side! You will need to call on them again as the application winds it way through the DNR Ask them to support an appeal to the Environmental Protection Commission should the DNR approve the permit.
- Encourage your county official in charge of construction permits to accompany the DNR staff when they make the site inspection. Also, talk with your supervisors about how important it is to have county staff accompany the DNR.



Photo courtesy: Tim McCabe, USDA NRCS

Once the Supervisors vote, it's up to the DNR

Regardless of how the supervisors vote, they must submit a formal recommendation to the Iowa DNR. If the supervisors vote to deny the permit, the recommendation must state where the Matrix points need to be reduced. If they don't, the DNR will look at the Matrix points and grant a permit if half of the points are met, the site inspection is satisfactory and the application complies with the rules and regulations.

- If your county is not cooperating with you or your group, make your case directly to the DNR – they make the final decision. Do this by writing letters that point out the problems with the Matrix and the siting of the CAFO. Your community may want to consider hiring a lawyer to write a letter declaring intent to sue if the DNR issues the permit.
- The Iowa DNR will make a site inspection as part of the permit evaluation.
- Keep on top of the progress of the application at the DNR. The DNR will either approve or deny the construction permit. The DNR has 30 days to make a decision.
- If the permit is denied, the applicant can appeal the decision to the Environmental Protection Commission.
- If the permit is approved, the Board of Supervisors can appeal the decision to the Environmental Protection Commission. Any appeal must be done within 14 days of the DNR's decision. Counties using the Matrix have the right to an appeal hearing before the Environmental Protection Commission (EPC) if the DNR approves a construction permit against the Supervisors' recommendation. Matrix scoring can be subjective and if the county and the DNR disagree, the EPC can take the county's view into consideration. If the county attorney is not cooperative, ask the supervisors to hire outside legal counsel to represent them at the EPC hearing.

At the Environmental Protection Commission

If either the applicant or the county chooses to appeal a decision by the DNR about a CAFO construction permit, a formal hearing will be held before the Environmental Protection Commission within 35 days of the appeal. Neighbors are not allowed to be part of the appeal process. However the public can and should write letters and emails to the EPC several days prior to the meeting and should speak at the EPC meeting about their opposition. Find the members' names and E-mail addresses at

www.iowadnr.gov/About-DNR/Boards-Commissions/Environmental-Protection-EPC

The Environmental Protection Commission is a group of citizens who volunteer their time. They serve as the policy-making board for the DNR. The agenda for the EPC meeting can be found at

www.iowadnr.gov/About-DNR/Boards-Commissions/Environmental-Protection-EPC

When you arrive at the EPC meeting, you will be given a card to write your name and the issue you want to talk about. The chair will call your name. You will be given 2 to 3 minutes to speak.

The best strategy is to arrange for several people who can sequentially go before the EPC during the public comment session. Each person should cover a point about the problem with the construction permit application and why the permit should be denied. Do not repeat your points. If you have pictures that area appropriate, show them to the commissioners.

After the Environmental Protection Commission

If the Environmental Protection Commission agrees to issue the construction permit, the neighbors can seek judicial review in the state court system.