



Court orders tighter 'factory farm' rule

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The state Court of Appeals has ruled that Michigan's program for regulating large livestock and poultry farms violates the federal Clean Water Act.

The 200 concentrated animal feeding operations in Michigan, known as CAFOs, collectively generate more than 4 billion pounds of manure annually, according to state data. Nearly all of that manure is spread, untreated, on farm fields. The practice can pollute nearby streams with harmful bacteria.

There are at least 16 CAFOs in West Michigan. Several of the massive livestock operations, including den Dulk Dairy Farms in Ravenna and Ryzebol Dairy in Bailey, have been cited by the state in recent years for pollution violations.

In a 2-1 ruling released Wednesday, the court said Michigan is wrongly giving farms too much authority to determine their own rates for spreading manure and keeping that information secret from the public. The Sierra Club had filed a lawsuit challenging the system.

"This is a real vindication of what we have been arguing for many years," said Anne Woiwode, director of the Sierra Club's state chapter. "Concentrated animal feeding operations are going to be put on the same footing with all of the other companies that need to get water quality permits."

Though some CAFOs generate as much waste as small cities, they are exempt from many environmental laws. Cities, for instance, must disinfect sewage before using it as fertilizer on farm fields. CAFOs are allowed to spread huge quantities of animal waste -- feces and urine laced with beneficial nutrients and potentially harmful bacteria and antibiotics -- on farm fields without treating it first.

The state in 2004 began issuing pollution discharge permits to CAFOs in an effort to keep manure from draining off farm fields and contaminating nearby surface waters.

Under the current system, the DEQ issues pollution discharge permits before CAFO operators provide nutrient management plans that detail how much, and where, manure will be spread on the land. The court said CAFOs' nutrient management plans should be available to the DEQ before the agency issue a permit.

Robert McCann, spokesman for the state Department of Environmental Quality, said the agency was reviewing the ruling and it was too soon to say whether an appeal could be in the works.

Judges William Whitbeck and Michael Talbot based much of their decision on a February 2005 federal appeals court decision. The federal ruling partially threw out federal rules governing large CAFOs because they didn't ensure that CAFOs would comply with environmental standards.

The Michigan appeals court also ruled that the state's permitting program doesn't give the public a chance to adequately review plans proposed by CAFO operators. The state had asserted that concerned citizens could file a Freedom of Information Act request.

"This is a rather circuitous path to encouraging and assisting public participation," Whitbeck wrote.

CAFOs present a growing challenge in Michigan, McCann said. There are about 200 in the state, and they typically have 1,000 or more "animal units" -- 2,500 pigs, for instance, or 100,000 egg-laying hens.

A farm with 5,000 cows produces as much waste in a day as does the city the size of Lansing, McCann said. Lansing has a population of about 114,000.

Some livestock manure is 160 times more concentrated than the sewage cities treat, according to the Illinois Environmental Protection Agency. CAFOs also emit some of the same toxic chemicals industries spew into the air, including ammonia and hydrogen sulfide, but their air emissions are not regulated in Michigan.

Michigan Farm Bureau officials have said CAFOs pose no greater risk to public health or the environment than small farms. They contend CAFOs are strengthening Michigan's \$60 billion farm economy.

Judge Brian Zahra dissented from the ruling. He said the Sierra Club made "sweeping assertions" but failed to point to a specific state law or regulation that has been violated.

The CAFO issue could be around for a while.

The Republican-led state Senate last year voted to let most CAFOs in Michigan avoid environmental permits and instead participate in a program handled by the state Department of Agriculture. State Sen. Gerald Van Woerkom, a Norton Shores Republican who chairs the Senate Agriculture Committee, co-sponsored that legislation.

But Gov. Jennifer Granholm opposed the bills and they stalled in the House -- where majority Democrats appear to be divided over the issue.

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