

Large Farm Operation (LFO) Law

Law:

§4849. Recycling Animal Waste Nutrients

In order to best use the nutrients of animal waste generated by large farm operations, the department of agriculture, food and markets together with the department of public service shall use available resources to inform large farm operations of appropriate methods and resources available to digest and compost their animal wastes, and to capture methane for beneficial uses.

§4850. Definitions

For purposes of this subchapter:

(1)"Animal unit" means 1,000 pounds of live body weight of livestock. Animal units are calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0, for any large farm operation.

(2)"Domestic fowl" means laying-hens, broilers, ducks, and turkeys.

(3)"Livestock" means cattle, swine, sheep, or horses.

§4851. Permit Requirements For Large Farm Operations

(a)No person shall, without a permit from the Commissioner, construct a new barn, or expand an existing barn, designed to house more than 950 animal units of horses, cattle and sheep, or 2,375 swine each weighing over 25 kilograms, or 95,000 laying-hens or broilers (if the facility has a continual flow water system), or 28,500 laying-hens or broilers (if the facility has a liquid manure system), or 4,750 ducks, or 52,250 turkeys. No permit shall be required to replace an existing barn in use for livestock or domestic fowl production at its existing capacity.

(b)A person shall apply for a permit in order to operate a farm which exceeds 950 animal units of horses, cattle and sheep, or 2,375 swine each weighing over 25 kilograms, or

95,000 laying-hens or broilers (if the facility has a continual flow water system), or 28,500 laying-hens or broilers (if the facility has a liquid manure system), or 4,750 ducks, or 52,250 turkeys if the livestock or domestic fowl are in a barn or adjacent barns owned by the same person, or if the barns share a common border or have a common waste disposal system. In order to receive this permit, the person shall demonstrate to the Commissioner that the farm has an adequately sized manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with accepted agricultural practices adopted under this chapter.

(c)The Commissioner shall approve, condition, or disapprove the application within 45 business days of the date of receipt of a complete application for a permit under this section. Failure to act within the 45 business days shall be deemed approval.

(d)A person seeking a permit under this section shall apply in writing to the Commissioner. The application shall include a description of the proposed barn or expansion of animal units; a proposed nutrient management plan to accommodate the number of livestock or domestic fowl the barn is designed to house or expand to; and a description of the manure management system to be used to accommodate agricultural wastes.

(e)The Commissioner may condition or deny a permit on the basis of odor, noise, traffic, insects, flies, or other pests.

(f)Before granting a permit under this section, the Commissioner shall make an affirmative finding that the animal wastes generated by the construction or expansion will be stored so as not to generate runoff from a 25-year, 24-hour storm event and shall be disposed of, in accordance with the accepted agricultural practices adopted under this chapter.

§4852. Rules.

The Commissioner may adopt rules pursuant to chapter 25 of Title 3 concerning program administration, program enforcement, appeals and standards for waste management and waste storage, odor, noise, traffic, insects, flies and other pests in order to implement this subchapter. In no case shall the rules be stricter than the federal regulations when adjusted where appropriate to 95 percent of the federal threshold governing concentrated animal feeding operations, as set forth in the EPA Guide Manual on NPDES Regulations and in EPA Document 833-B-95-001 of December, 1995.

§4853. Informational Meeting

(a)The Commissioner shall conduct an informational meeting in a municipality when there is a proposal to construct a new barn, within the municipality, that would require a permit under this subchapter.

(b)The Commissioner may conduct an informational meeting in a municipality in which a barn expansion is sought, if the barn is already subject to permitting requirements under this subchapter, and if that expansion would increase housing for livestock or domestic fowl by more than 30 percent within a 12-month period.

§4854. Revocation; Enforcement

The Commissioner may revoke a permit issued under this subchapter after following the same process prescribed by section 2705 of this title regarding the revocation of a handler's license. The Commissioner may also seek enforcement remedies under sections 1, 12, 13, 16 and 17 of this title as well as assess an administrative penalty under section 15 of this title to any person who fails to apply for a permit as required by this subchapter, or who violates the terms or conditions of a permit issued under this subchapter. However, notwithstanding the provisions of section 15 of this title to the contrary, the maximum administrative penalty assessed for a violation of this subchapter shall not exceed \$5,000.00 for each violation, and the maximum amount of any penalty assessed for separate and distinct violations of this chapter shall not exceed \$50,000.00.

§4855. Permit Appeal

A person seeking a permit who is aggrieved by a final decision of the Commissioner may appeal de novo to the environmental court within 30 days of the final decision of the Commissioner. The only parties to the appeal shall be the person seeking the permit and the Commissioner.