

## Planned Changes in Manure Management Systems Require Prior Notification to WDNR

*Article written by: David Crass and Anna Wildeman of Michael Best & Friedrich, LLP*

Manure management technologies are evolving daily and DBA producers are at the forefront of the adoption and development of these innovative technologies. Management at the Wisconsin Department of Natural Resources (WDNR) are supportive of the deployment of these technologies which can assist in resource protection at the same time as reducing an operations carbon footprint. However, producers that are CAFOs planning such a change in manure management technologies must do so mindful of the obligations contained in the operation's WPDES permit which may come into play.

A standard provision included in most CAFO WPDES permits requires a producer to submit written notification to the Department of Natural Resources prior to implementing a planned change in operations that will result in *new, different or increased amount of manure or process wastewater produced or handled by the permittee*. This provision can come into play as producers contemplate implementing new manure management technologies.

Planned changes subject to this prior WDNR notification can include installation of innovative manure management equipment and changes to leachate collection or wastewater management systems. A producer must notify WDNR of these planned changes even if no construction is required for the installation, the change will not include installation or modification of a “reviewable facility”, and no other prior approval from the Department is required. If a planned change will result in any change in manure or process wastewater generation or management, notification must be submitted to the Department.

If a change in operation or manure management system will result in a violation of effluent limitations of an existing WPDES permit, the Department may require the producer to submit a new WPDES permit application. If the change will not violate effluent limitations of an existing permit, the producer is simply required to provide written notification to WDNR. Written notification must include the following:

- description of the new activity or operation,
- estimate of the new, different or increased discharge of pollutants, and
- description of the effect of the new operation on existing waste treatment or storage facilities.

As a practical matter, if the planned change includes installation of a non-reviewable piece of equipment, producers should also submit to WDNR an explanation as to why the installation is *non-reviewable* and why it is not subject to prior WDNR *approval*; producers should also consider and note any changes to its nutrient management plan that may be required as a result of the change in operation. Upon receipt of the notification, if it determines the planned change *is reviewable*, the Department can require the producer to submit plans and specifications and prohibit the change from being implemented prior to WDNR review and approval.

DBA continues to work with its producer members, technology providers and WDNR staff in the deployment of these innovative technologies and to navigate the regulatory playing field to ensure projects proceed in a timely manner.

If you are considering such a project and are a CAFO, we encourage you to contact DBA or Michael Best & Friedrich at 608.257.3501 for regulatory guidance.