

No Permit, No Testing, No Science, No Honest Labeling Just Make Unproven Manure Claims

A craftily worded Wisconsin Senate Bill 24 presents a major change to how manure and its nutrients would be regulated, and *would likely be copied by other states*. The Senate Bill has been referred to the Committee on Agriculture and Tourism, named “The distribution and labeling of fertilizers and soil or plant additives produced from manure”.¹

The proposed March 2023 change to Wisconsin’s Chapter 94 Statute – Plant Industry 94.64 – Fertilizer² appears to be written to support the commercial manure biogas and renewable natural gas industry. The bill is a scheme to dispose of Wisconsin’s massive amount of dairy cow and other manure from CAFOs. With fewer and less burdensome regulations, this bill could also pave the way for Big Baby Biogas (the offspring of Big Ag and Big Oil), because the mechanical anaerobic digestion of manure produces methane.

The Wisconsin Department of Administration Division of Executive Budget and Finance performed a fiscal estimate and review of Senate Bill 24 and wrote:

Under this bill, fertilizer and soil or plant additives that are produced from converting manure into compost or vermicompost and their derivatives would not be required to obtain a fertilizer permit, provide label grade or guaranteed analysis and would be allowed to make claims about the performance of their products using typical analysis as justification instead of scientific justification. This bill would eliminate the requirement for these products to provide the grade and guaranteed analysis on the label.³

Too much Nitrogen is a known contributor to toxic well-water, and too much Nitrogen and Phosphorus leads to harmful algal blooms in surface waters. Manure supplies both.

And yet, no environmental groups were asked to comment upon the change in this bill that would remove the requirement to guarantee the nutrient analysis of bags of manure compost that could affect agricultural soils, surface waters, drinking water, and value to consumers buying bags of this substance for their gardens. The Wisconsin Ethics Commission's *Lobbying* web site listed the businesses to which Senate Bill 24 was referred for comment: Wisconsin Agri-Business Association, Dairy Business Association, Cooperative Network (for farm supply and farm credit), and Wisconsin Farm Bureau Federation.⁴

¹ WI SB 24, <https://docs.legis.wisconsin.gov/2023/related/proposals/sb24>

² Existing Chapter 94 Statute – Plant Industry; 94.64 – Fertilizer,
<https://law.justia.com/codes/wisconsin/2022/chapter-94/section-94-64/>

³ Wisconsin Department of Administration Division of Executive Budget and Finance;
https://docs.legis.wisconsin.gov/2023/related/fe/sb24/sb24_datcp.pdf

⁴ WI Lobbying and the Lobbying Principles, Wisconsin Ethics Commission's Lobbying

Environmentally, algae blooms consume vast amounts of oxygen. The reduction of water-borne oxygen kills off flora and fauna which reduces natural diversity, and in many cases, causes dead zones in once-healthy water bodies. Phosphorus and nitrogen related algae blooms are seen nearly everywhere. Known examples are Chesapeake Bay and coastal Florida.

Fertilizer in Wisconsin has a long history (since 1985) of requiring permits that substantiate through scientific evidence the truthfulness of fertilizer product claims. The public depends upon the guaranteed analysis of Nitrogen, Phosphorus, and Potassium within the product in order to grow the strongest and healthiest plants.

CAFO animal manure that goes into an anaerobic digester tank in order to extract methane for farm energy use or pipeline sale, produces “digestate”—the liquid and solid process-residuals. It is this dried manure digestate that WI Senate Bill 24 wants to allow to go into a bag for sale without guaranteed nutrient analysis as just another soil conditioner. The bill “exempts a fertilizer that is produced from converting manure into compost from being required to contain a minimum amount of certain plant nutrients.”⁵

Digestate can contain at least the same nutrient content as the original watery animal manure, and therefore is not just another form of compost. “Bacteria in a digester can perhaps metabolize phosphorous into phosphates, but at the end of the day, a phosphorous atom goes in and a phosphorous atom comes out.”⁶

Now it seems the Wisconsin Legislature wants to remove the science protecting the public from digestate. Manure converted into compost or vermicompost would no longer be classified as a fertilizer or waste. The industry will likely make “beneficial use” claims, touting composted/vermicomposted manure as simply a soil amendment/conditioner, which avoids permitting. Giant CAFOs will also have a carefree outlet for their massive quantities of unregulated manure.

If Big Baby Biogas promotes separating digestate into its liquid and solid components as a solution to nutrient pollution, it is the solid component that they will call compost. Reclassifying it as a soil amendment/conditioner instead of a fertilizer will mean they can land-apply the nutrients, the heavy metals, and the pathogens still in the digestate with far fewer restrictions. Pathogenic bacteria are in manure and are not completely inactivated by conventional anaerobic digestion or composting.⁷ To keep health risks restrained, pathogens in manure must be controlled and digestate must be regulated.

Digestate content must be disposed of as carefully as raw manure, not stuffed into bags without scientific analysis of the content. The phosphorus and nitrogen content of digestate does not change even though the industry promotes the false idea that digesters will help solve manure nutrient pollution. It is crucial that composted digestate be analyzed and labeled if offered for

⁵ 2023-24 Wisconsin Legislature Senate Bill 24; <https://docs.legis.wisconsin.gov/2023/proposals/sb24>

⁶ WisContext, “What Manure Digesters Can and Cannot Do,” by Scott Gordon, November 30, 2016; <https://www.wiscontext.org/what-manure-digesters-can-and-cant-do>

⁷ *Ibid.*

public use. For example, municipal wastewater sludge is composted and subjected to additional heat treatment and labeled as *Class A biosolids* before being made available for gardening and landscaping.⁸

State Legislators should instead of creating unscientific remedies to the problem of excess manure draft laws that guard the populace of Wisconsin farmland and state waters from nutrient pollution. Lawmakers must create a standard for digestate testing and usage that informs the public of nutrient content just like a bag of NPK fertilizer.

8. Using Biosolids for Gardens and Landscaping, Washington State Univ. Extension, FS156E, Feb. 2019. <https://extension.wsu.edu/thurston/gardening-info-fact-sheets/>

Post Script outcome of WI SB 24:

Senate Bill 24--An Act to renumber 94.64 (1) (a); to amend 94.64 (3m) (a) (intro.), 94.64 (3m) (a) 1., 94.64 (9) (c), 94.65 (4) (a) (intro.) and 94.65 (4) (b); and to create 94.64 (1) (ag), 94.64 (1) (u), 94.64 (2) (f), 94.64 (3m) (a) 3., 94.65 (1) (bm), 94.65 (1) (fm) and 94.65 (5m) of the statutes; Relating to: the distribution and labeling of fertilizers and soil or plant additives produced from manure. (FE)

Status: Important Actions (newest first) (“Assembly” is lower house of WI legislature)

Date	Action	Journal
4/15/2024	House Failed to concur in pursuant to Senate Joint Resolution 1 Asm.	837
5/8/2023 Sen.	Report passage recommended by Committee on Agriculture and Tourism : Ayes 9, Noes 0	228

*Failed to concur: The following is a list of Assembly and Senate bills and joint resolutions, and Assembly resolutions in the possession of the Assembly at the end of the general-business floorperiod, which was adjourned on April 11, 2024 and therefore adversely disposed of pursuant to **Senate Joint Resolution 1**: 837 4/15/24 <https://docs.legis.wisconsin.gov/2023/proposals/sb24>*