

FAILURE OF CURRENT INDIANA LAW TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT FROM FACTORY FARMS

At HEC, we often hear from long-time rural Hoosier families that their lives have been disrupted by the proliferation of factory farms in their communities. A common problem they share—aside from the sickening odors, manure-laden waterways, plummeting property values, and community conflict so often caused by factory farms—are the feelings of frustration, isolation and despair they experience when they learn that their local government officials and Indiana’s environmental agency can’t help. When they reach out to the Indiana Department of Environmental Management (“IDEM”) they’re told it’s a “local problem” and when they contact their local government leaders, they are directed back to IDEM. In other words, citizens who need help are not getting it and in most cases it is because the offending factory farm is in compliance with the law. *That means that something is wrong with the law.* And, indeed, there are several problems.

NO LIMIT ON ANIMAL NUMBERS

Although there is a minimum animal number threshold for regulation under current Indiana law, there is no maximum limit on the number of animals at a factory farm. Consequently, the size of factory farms has dramatically increased in recent years. For example, since 2012, the average sized hog factory farm approved by IDEM went from 5,000 to more than 10,000 hogs. Similarly, the average dairy factory farm went from 1,000 to more than 4,000 cattle. To put that into perspective, the average adult human generates 1 pound of feces per day whereas the average dairy cow generates 82 pounds per day. That means a 4,000 head dairy factory farm will generate the same amount of excrement every day as a city of 328,000 people.

DANGEROUSLY INADEQUATE SETBACKS FROM HOMES, SCHOOLS, CHURCHES, WATER RESOURCES AND NATURAL AREAS

Under current law, the enormous amount of biological waste generated at a factory farm can be collected and stored in open air, unlined “lagoons” larger than several football fields

and built just 400 feet away from where people live. That's because current regulation imposes a mere 400-foot setback from existing homes—a distance that is measured from structure to structure, not the residential property line. Put another way, if an existing home is 300 feet from its property boundary, the factory farm—regardless of size—can be built just 100 feet from that boundary, effectively imposing a 300-foot easement on the residential property without paying for it. Similarly, current regulation imposes a mere 300-foot setback from our lakes, rivers, streams, and wetlands. And there are no specific setbacks for parks, churches, schools, and other public places other than a meager 100-foot setback from property lines. In other words, regardless of the number of animals and amount of waste produced, no hog skyscraper would ever be too large, and no lake of dairy waste too vast, putrid, and foul, to require a greater setback from where our children and their families live, learn, play and worship.

FACTORY FARMS ARE NOT “ZERO DISCHARGE”

The livestock industry claims that there is no need to strengthen current regulation because factory farms are “zero discharge”—i.e., they do not pollute our waterways. This is a legal fiction and simply not true. Indiana's livestock generate as much untreated excrement as that produced by 87 million people. Put another way, Indiana's factory farms generate 14 times the amount of animal waste produced by Indiana's human population. It is well known that animal waste (both from humans and livestock) contains high levels of phosphorus and nitrogen as well as pathogens like *E. coli* and parasites which is why human waste must be treated before it can ever be applied to land. Nevertheless, under current regulation, as long as the millions of gallons of untreated livestock waste produced annually by a typical factory farm is spread on land in accordance with cookie-cutter setback requirements and application requirements for nutrients (not pathogens), any runoff of that waste with rain or melting snow to waterways, or leaching into groundwater, is not considered a “discharge” subject to permitting or enforcement. And, because IDEM is required to conduct inspections only once every 5 years, whether factory farms are complying with even the meager land disposal requirements is really anybody's guess. As a result, the leading source of water contamination in Indiana is *E. coli* — contamination that is largely from livestock waste.

NO LIMITS ON NOXIOUS ODORS AND DANGEROUS AIR EMISSIONS

Under current law, IDEM lacks authority to regulate the noxious and dangerous odorous compounds (hydrogen sulfide, ammonia, volatile fatty acids, amines, and others) that factory farms are known to generate. Nor does USEPA, because factory farms are exempt from regulation under the Clean Air Act. This is particularly troublesome given the findings of numerous, peer-reviewed, scientific studies over decades that have confirmed the human health effects and significant deterioration of air quality and quality of life for people who live near factory farms due to these emissions. Furthermore, this problem more than any other is the one that is so devastating to the lives of people who through no fault of their own find themselves living next to a new factory farm where a cornfield once stood. Yet under current law, it is perfectly legal.

OTHER IMPACTS OF FACTORY FARMS

ANTIBIOTIC RESISTANCE

Animals raised on factory farms are routinely given antibiotics to accelerate growth and ward off disease associated with living in confined conditions. The widespread use of antibiotics has contributed to the evolution and increase of antibiotic-resistant bacteria in humans. The Center of Disease Control and Prevention (CDC) has declared antibiotic resistance to be among the top five health threats facing our nation. In addition, the American Public Health Association, the American Medical Association, the American Academy of Pediatrics, the Infectious Disease Society of America, and the World Health Organization have all issued statements calling for restrictions on the use of prophylactic antibiotics in livestock.

ECONOMIC IMPACTS

Typically, the four largest firms in one economic sector will control anywhere between 40-45% of the sector's market. Many economists maintain that allowing any higher levels of market concentration can erode competitiveness. Nevertheless, in the agriculture sector, a handful of giant conglomerates control approximately 90% of all meat, dairy, and poultry production. This domination of market share is due in part to state and national policies

that were enacted to protect traditional farmers but now serve primarily to benefit and protect the economic interests of large corporations. Indiana's so called "Right to Farm" laws are an example of such policies enacted under the guise of protecting farmers but in reality, allow factory farm owners to escape liability for harming their neighbors, eliminate competition, and drive traditional farmers out of business. Also, factory farms are often promoted through claims that they will bring economic vitality to local communities. Yet, research shows otherwise. Loss of jobs, depressed property values, loss of income for local businesses and a huge drain on county resources often result from the proliferation of factory farms.

FOOD DESERTS

According to the USDA, a food desert is "a census tract with a substantial share of residents who live in low-income areas [poverty rate of 20% or greater] that have low levels of access to a grocery store or healthy, affordable food retail outlet." The lack of access contributes to a poor diet and can lead to higher levels of obesity and other diet-related diseases, such as diabetes and heart disease. Shockingly, Indiana is the tenth most dominant agricultural state in the country with over 14 million acres of farmland, yet we import an estimated 90% of our food from out of state and over 25% of Indiana residents live in food deserts no access to healthy food. The reason: the vast majority of crops grown in Indiana are monocrops such as corn and soybeans that are not grown for direct human consumption, but to make feed for livestock and highly processed foods.

INDIANA'S RIGHT TO FARM LAWS

Indiana has two "Right to Farm" laws that, despite the name, serve only to protect the interests of the corporate-controlled livestock industry, not traditional farmers. The Right to Farm Act ("RTFA") provides livestock operations that harm their neighbors with special legal immunity when the neighbors seek relief in court. In turn, Senate Enrolled Act 186 ("SEA 186") enacted in 2014 requires regulators and courts to "construe" state law so as not to interfere with the industry's "right" to use its preferred "livestock production practices," which include the use of factory farms, regardless of the harm those practices cause. Learn more about [HEC's work to overturn these unjust and unconstitutional laws.](#)