

House Research Act Summary

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TOPIC: Feedlot Regulations

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Overview

The Minnesota Pollution Control Agency has spent several years drafting new rules for permitting animal feedlots. The proposed rules were published in the State Register on December 20, 1999, and public hearings on the proposed rules ended February 14, 2000. Chapter 435 provides specific legislative direction to the agency in completing its rulemaking process. The act removes certain feedlots with under 300 animal units from regulation and, until January 1, 2005, allows the operator of a feedlot with between 300 and 1,000 animal units to elect to implement an approved manure management plan or to become certified as a private manure applicator.

- 1 Manure applicator education and training.** The commissioner of agriculture, with the Minnesota extension service, is to provide educational and training programs for manure applicators and the preparation of manure management plans. The commissioner is to report to the legislature on recommendations for private manure applicator training and certification. Training and questions on examinations must include ways to prevent manure contamination of waters of the state.
- 2 Private manure applicator certification.** New statutory language provides that after January 1, 2005, if an animal feedlot has a capacity of 300 animal units or more and **doesn't** have an updated manure management plan, animal waste from the feedlot can be land applied only by a commercial animal waste technician or a certified private manure applicator. The commissioner of agriculture is to set up a program of training and certification for private manure applicators. An applicant must be tested and pay a certification fee of \$10, which is valid for three years.
- 3 Definition; animal unit.** Establishes a new statutory formula for calculating animal units (AUs) for purposes of feedlot certification:

A mature dairy cow over 1,000 pounds is 1.4 AU while a dairy cow under 1,000 pounds is 1.0 AU. A calf is 0.2 AU and a cow/calf pair is 1.2 AU. Feeder cattle or heifers are each 0.7 AU and a slaughter steer is 1.0 AU.

A pig over 300 pounds is 0.4 AU; a pig 55 pounds to 300 pounds is 0.3 AU; and a pig under 55 pounds is 0.05 AU.

A horse is 1.0 AU.

A sheep or lamb is 0.1 AU.

Chickens can range from 0.003 AU to 0.033 AU depending on the weight of the bird and the type of manure handling system used for the feedlot.

Turkeys under 5 pounds are 0.005 AU and over 5 pounds 0.018 AU.

A duck is 0.01 AU.

For animals not listed the AU value is calculated as the ratio between the average weight of the animal and 1,000 pounds.

- 4 **Animal feedlot permits.** Makes several small and major changes in existing law allowing for the delegation of feedlot permitting functions to counties.

Requires that for applications filed after October 1, 2001, the 60-day response provisions of Minnesota Statutes, section 15.99 apply to both the PCA and a delegated county.

In a departure from current rule, a feedlot permit would not become required solely because the feedlot, grounds, or buildings change ownership.

Once proposed PCA feedlot rules are adopted, the PCA may not impose additional requirements or conditions on an applicant for a feedlot permit unless required by law or agreed to by the applicant.

A fine can not be assessed for a runoff from land-applied manure or a manure stockpile managed according to PCA rule.

Generally, other than for specific exceptions, stockpiled or land-applied manure is not to be considered a discharge into waters of the state.

The operator of a feedlot with a capacity of 300 animal units or less can not be required to spend more than \$3,000 for an upgrade unless 75-percent cost-share money is available. For a feedlot with a capacity of 300 to 500 animal units, the operator can't be forced to spend over \$10,000 unless 75-percent cost-share money is available and the maximum cost of the upgrade is \$50,000 or less.

- 5 **NPDES permitting requirements.** Clarifies existing language concerning the applicability of feedlots needing a national pollution discharge elimination system permit and specifies cases in which the "general" permit or the "individual" permit is to be used. Requires the development of criteria for evaluating the type of permit to be issued in a given situation.
- 6 **Livestock odor.** Adds new language to existing law on livestock odor. Exempts feedlots from state ambient air quality standards while manure is being removed from storage facilities and for seven days thereafter. Feedlots having more than 300 animal units are limited to 21 days of exemption per calendar year. Notice of a claim of air quality exemption must be provided to the PCA or a county feedlot officer. Ambient air quality standards are applicable at the boundary of the property on which the feedlot is located, and can be extended to the boundary of adjoining property if the feedlot owner has a written easement across the neighboring property. Finally, the PCA must not require air emission modeling for a permit on a type of livestock system that hasn't had a hydrogen sulfide emission violation.
- 7 **Feedlot administrative penalty orders.** Requires forgiveness of not less than 75 percent of an administrative feedlot penalty if that amount is used for mitigation measures or other environmental improvements to the farm.
- 8 **Permit requirements.** A 1998 law prohibiting permits for open-air clay, earthen, or flexible membrane lined swine waste lagoons until after June 30, 2000, is extended to a date six months

after final approval of the generic environmental impact statement.

9 **Timely response to permit applications; report on needs.** If the PCA determines that it is not able to respond to permit applications within the 60 days required under section 15.99, it must report by October 15, 2000, to the commissioner of finance and the legislature on the additional resources needed to accomplish timely response.

10 **Rules for animal feedlots.** Requires certain amendments to the proposed PCA rules on feedlots before the rules are adopted:

Rules must not restrict the pasturing of animals, including the maintenance of winter feeding areas.

Must not require a manure management plan unless the feedlot is required to have a permit.

Must not add animal units from other livestock just because manure from the other livestock is land-applied.

Must not require a pollution prevention plan as part of a feedlot permit application.

Must not require the removal of manure packs and mounding except to prevent pollution.

Must not require information on a feedlot permit application that is not required by rules.

Limits the information that can be required in a newspaper notification of proposed construction or expansion.

Must not require a state disposal system permit except when required by law.

Must exempt county fairgrounds from the permit requirement.

Must notify feedlot operations of a registration at least 90 days prior to the registration deadline.

Must require a timely response to each feedlot registration received.

Must extend the validity of a permit until a new permit is issued.

Must limit school and child care location restrictions to *licensed* facilities.

Extend the deadline date for interim corrective measures on open lots to October 1, 2005, and final compliance measures to October 1, 2010.

Allow direct notification of feedlot permit application in lieu of newspaper notification.

Allow a short-term manure stockpile site for a full 365 days.

Include only a general reference to the right of counties, townships, and cities to adopt and enforce zoning ordinances.

Allow specifications for manure storage facilities that are drafted by a registered professional engineer or a qualified federal or state employee.

Exempt limitations on the reuse of short-term manure stockpiling sites under certain conditions.

Expand eligible practices for the management of manure nutrients to those recommended by land grant colleges in contiguous states.

11 **Feedlot upgrades; report, financial assistance.** The commissioner of agriculture and other designated agency leaders are to study the need for state financial assistance by small livestock feedlot operators. The study is to look specifically at the unique needs of operators of feedlots with less than 100 animal units, 100 to 300 animal units, and 300 to 500 animal units. The commissioner is to report to the legislature on the findings by February 1, 2001.

12 **Moratorium on upgrade requirements for small feedlots.** Until funding is available at a 75-percent match for feedlots under 100 animal units, the PCA may not require the operator to

upgrade the feedlot unless there is an immediate public health threat.

13 **Workgroup; report.** The PCA commissioner is required to convene a workgroup to evaluate standards for liquid manure storage facilities on soils susceptible to collapse and sinkhole formation. Findings must be reported to the legislature by October 31, 2000.

14 **Private manure applicator education and training plan.** The commissioner of agriculture is required to consult with industry representatives and develop plans for the training of private manure applicators.

15 **Effective date.** Sections 1 to 14 are effective the day following final enactment.