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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 955

01/26/2023 Authored by Hansen, R., and Lee, F., The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy

1.1 A bill for an act
1.2 relating to environment; requiring financial assurance for certain feedlot permits;
1.3 requiring inventories and reports; appropriating money; amending Minnesota
1.4 Statutes 2022, section 116.07, by adding subdivisions.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2022, section 116.07, is amended by adding a subdivision
1.7 to read:

1.8 Subd. 7f. Financial assurance. (a) Before the commissioner issues or renews a permit
1.9 for a feedlot with a capacity of 1,000 or more animal units, the permit applicant must submit
1.10 to the commissioner proof of financial assurance that satisfies the requirements under this
1.11 subdivision. Financial assurance must be of an amount sufficient to pay the closure costs
1.12 determined under paragraph (c) for the feedlot and manure storage area, with all terms and
1.13 conditions of the financial assurance instrument approved by the commissioner. The
1.14 commissioner, in evaluating financial assurance, may consult individuals with documented
1.15 experience in the analysis. The applicant must pay all costs incurred by the commissioner
1.16 to obtain the analysis.

1.17 (b) A permittee must maintain sufficient financial assurance for the duration of the permit
1.18 and demonstrate to the commissioner's satisfaction that:

1.19 (1) money will be available and made payable to the commissioner if the commissioner
1.20 determines the permittee is not in full compliance with the closure requirements established
1.21 by the commissioner in rule for feedlots and manure storage areas;

1.22 (2) the financial assurance instrument is fully valid, binding, and enforceable under state
1.23 and federal law;

2.1 (3) the financial assurance instrument is not dischargeable through bankruptcy; and

2.2 (4) the financial assurance provider will give the commissioner at least 120 days' notice
 2.3 before canceling the financial assurance instrument.

2.4 (c) The permit applicant must submit to the commissioner a documented estimate of
 2.5 costs required to implement the closure requirements established by the commissioner in
 2.6 rule for feedlots and manure storage areas. Cost estimates must incorporate current dollar
 2.7 values at the time of the estimate and any additional costs required by the commissioner to
 2.8 oversee and hire a third party to implement the closure requirements. The applicant must
 2.9 not incorporate the estimated salvage or market value of manure, animals, structures,
 2.10 equipment, land, or other assets. The commissioner must evaluate and may modify the
 2.11 applicant's cost estimates and may consult individuals with documented experience in feedlot
 2.12 or manure storage area closure or remediation. The applicant must pay all costs incurred
 2.13 by the commissioner to obtain the consultation.

2.14 Sec. 2. Minnesota Statutes 2022, section 116.07, is amended by adding a subdivision to
 2.15 read:

2.16 Subd. 7g. **Abandoned manure storage areas.** At least annually, the commissioner must
 2.17 compile a list of abandoned manure storage areas in the state. A list compiled under this
 2.18 subdivision is not a feedlot inventory for purposes of subdivision 7b. For purposes of this
 2.19 subdivision, "abandoned manure storage areas" means solid and liquid manure storage areas
 2.20 that have been previously registered with the state as a feedlot with a manure storage area
 2.21 and have:

2.22 (1) permanently ceased operation and are subject to, but not in compliance with, the
 2.23 closure requirements established by the commissioner in rule for feedlots and manure storage
 2.24 areas; or

2.25 (2) been unused for at least three years.

2.26 Sec. 3. **FEEDLOT FINANCIAL ASSURANCE REQUIREMENTS COMPLIANCE**
 2.27 **SCHEDULE.**

2.28 The commissioner of the Pollution Control Agency may phase in the new financial
 2.29 assurance requirements under Minnesota Statutes, section 116.07, subdivision 7f, during
 2.30 the next reissuance of the national pollutant discharge elimination system general permit
 2.31 for concentrated animal feeding operations, MNG440000. The commissioner must establish
 2.32 a schedule for permittees to come into compliance with the requirements. The schedule

3.1 must require 250 permittees per year to comply, beginning with the operations with the
3.2 largest number of animal units.

3.3 **Sec. 4. MANURE STORAGE AREA REPORTS REQUIRED.**

3.4 Subdivision 1. **Reports.** (a) No later than December 15, 2023, the commissioner of the
3.5 Pollution Control Agency must develop a list based on registration data for each county of
3.6 potentially abandoned manure storage areas.

3.7 (b) No later than January 15, 2025, each delegated county must report to the commissioner
3.8 of the Pollution Control Agency a list of abandoned manure storage areas located in the
3.9 county. The report must be submitted by the county feedlot officer.

3.10 (c) No later than January 15, 2025, the Pollution Control Agency regional feedlot staff
3.11 must compile a list of abandoned manure storage areas located in counties under their
3.12 regulatory jurisdiction that do not have delegation agreements with the agency.

3.13 (d) No later than February 15, 2025, the commissioner of the Pollution Control Agency
3.14 must submit a compilation report and list of abandoned manure storage areas to the legislative
3.15 committees with jurisdiction over agriculture and environment. The report must include
3.16 recommendations for remediation. The commissioner must seek advice from the Minnesota
3.17 Association of County Feedlot Officers and livestock associations for recommendations,
3.18 including existing and any proposed options for remediation.

3.19 (e) For purposes of this section, "abandoned manure storage areas" has the meaning
3.20 given in Minnesota Statutes, section 116.07, subdivision 7g.

3.21 (f) Reports and lists required under this section are not feedlot inventories for purposes
3.22 of Minnesota Statutes, section 116.07, subdivision 7b.

3.23 Subd. 2. **Delegated counties.** (a) Except as provided in paragraph (b), during the 2023
3.24 and 2024 delegation years, the commissioner of the Pollution Control Agency must not
3.25 penalize a delegated county for a performance issue or shortcoming attributable to the
3.26 county's reassignment of county feedlot officer resources necessary to comply with the
3.27 additional requirements imposed upon the county under subdivision 1.

3.28 (b) The commissioner may penalize a county during the 2023 or 2024 delegation year
3.29 for a performance issue or shortcoming attributable to the county's reassignment of county
3.30 feedlot officer resources only if the specific penalty is approved by a majority of the board
3.31 of the Minnesota Association of County Feedlot Officers.

4.1 Sec. 5. **APPROPRIATIONS.**

4.2 Subdivision 1. **General fund.** (a) \$250,000 in fiscal year 2024 and \$250,000 in fiscal
4.3 year 2025 are appropriated from the general fund to the commissioner of the Pollution
4.4 Control Agency to implement feedlot financial assurance requirements and compile the
4.5 annual list of abandoned manure storage areas under Minnesota Statutes, section 116.07,
4.6 subdivisions 7f and 7g.

4.7 (b) \$700,000 in fiscal year 2024 is appropriated from the general fund to the commissioner
4.8 of the Pollution Control Agency for distribution to delegated counties based on registered
4.9 feedlots and manure storage areas for inspections of manure storage areas and the abandoned
4.10 manure storage area reports required under this act. This is a onetime appropriation and is
4.11 available until June 30, 2025.

4.12 (c) \$250,000 in fiscal year 2024 is appropriated from the general fund to the commissioner
4.13 of the Pollution Control Agency for a grant to the Minnesota Association of County Feedlot
4.14 Officers to provide training on state feedlot requirements, working efficiently and effectively
4.15 with producers, and reducing the incidence of manure or nutrients entering surface water
4.16 or groundwater.

4.17 Subd. 2. **Environmental fund.** \$250,000 in fiscal year 2024 and \$250,000 in fiscal year
4.18 2025 are appropriated from the environmental fund to the commissioner of the Pollution
4.19 Control Agency to implement feedlot financial assurance requirements and compile the
4.20 annual list of abandoned manure storage areas under Minnesota Statutes, section 116.07,
4.21 subdivisions 7f and 7g.