

CHAPTER 7020
MINNESOTA POLLUTION CONTROL AGENCY
ANIMAL FEEDLOTS

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GENERALLY

7020.0100 PREAMBLE.

An adequate supply of healthy livestock, poultry, and other animals is essential to the well-being of Minnesota citizens and the nation. These domesticated animals provide our daily source of meat, milk, eggs, and fiber. Their efficient, economic production must be the concern of all consumers if we are to have a continued abundance of high-quality, wholesome food and fiber at reasonable prices.

However, livestock, poultry, and other animals produce manure which may, when improperly stored, transported, or disposed, negatively affect Minnesota's environment. When animal manure adds to air, water, or land pollution in the state of Minnesota, it must be controlled.

The following rules for the control of livestock, poultry, and other animal manures have been promulgated to provide protection against pollution caused by manure from domesticated animals. However, these rules recognize that animal manure often provides beneficial qualities to the soil and to the production of agricultural crops.

These rules provide for a cooperative program between counties and the Minnesota Pollution Control Agency (hereinafter agency). County programs, in many instances, represent considerable experience and sensitivity to local agricultural practices and to successful soil and water conservation. Pollution control measures, where deemed necessary by the agency, should be individually designed and developed to provide the site specific controls needed for the operation in question. Therefore, a joint county-state program is desirable because it will insure local involvement, minimal disruption to agricultural operations and protect the environment from further degradation.

These rules comply with the policy and purpose of the state of Minnesota in regard to the control of pollution as set forth in Minnesota Statutes, chapters 115 and 116. Specifically, these rules are promulgated in accordance with Minnesota Statutes, sections 116.07 and 115.03. Finally, these rules shall have the force and effect of law and shall supersede and replace Minnesota Rules SW 51 to 55 (1971) and Minnesota Rules SW 56 to 61 (1974) 20 days after their publication in the State Register.

In repealing the old rules controlling pollution from animal feedlots, specifically Minnesota Rule 54 containing certain location requirements, the agency will look to local units of government to provide adequate land use planning for residential and agricultural areas. It has been the agency's experience that residential and agricultural uses of land are often incompatible and that the best forum for resolving the conflicting use of land is at the local level. However, in promulgating these rules the agency does not seek to abdicate its mandate to protect the purity of the natural resources of the state of Minnesota.

Statutory Authority: *MS s 116.07 subd 7*

7020.0200 SCOPE.

The provisions of parts 7020.0200 to 7020.0900 govern the storage, transportation, disposal, and utilization of animal manure and the application for and issuance of permits and certificates of compliance for construction and operation of animal manure management and disposal or utilization systems for the protection of the environment.

Statutory Authority: *MS s 116.07 subd 7*

7020.0300 DEFINITIONS.

Subpart 1. **Scope.** All terms employed in these animal feedlot rules for which definitions are given in Minnesota Statutes, sections 115.07 and 116.06, shall have the meaning ascribed to them therein. The terms specified in this part shall have the meanings ascribed to them.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency as established in Minnesota Statutes, chapter 116.

Subp. 3. **Animal feedlot.** "Animal feedlot" means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these parts.

Subp. 4. **Animal manure.** "Animal manure" means poultry, livestock, or other animal excreta or a mixture of excreta with feed, bedding, or other materials.

Subp. 5. **Animal unit.** "Animal unit" means a unit of measure used to compare differences in the production of animal manures that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. For purposes of parts 7020.0200 to 7020.0900, the following equivalents shall apply:

- A. one mature dairy cow, 1.4 animal unit;
- B. one slaughter steer or heifer, 1.0 animal unit;
- C. one horse, 1.0 animal unit;
- D. one swine over 55 pounds, 0.4 animal unit;
- E. one duck, 0.2 animal unit;
- F. one sheep, 0.1 animal unit;
- G. one swine under 55 pounds, 0.05 animal unit;
- H. one turkey, 0.018 animal unit;
- I. one chicken, 0.01 animal unit.

For animals not listed in items A to I, the number of animal units shall be defined as the average weight of the animal divided by 1,000 pounds.

Subp. 6. **Certificate of compliance.** "Certificate of compliance" means a letter from the commissioner or the county feedlot pollution control officer to the owner of an animal feedlot stating that the feedlot meets agency requirements.

Subp. 7. **Change in operation.** "Change in operation" means an increase beyond the permitted maximum number of animal units, an increase in the number of animal units which are confined at an unpermitted animal feedlot requiring a construction investment, or a change in the construction operation of an animal feedlot that would affect the storage, handling, utilization, or disposal of animal manure.

Subp. 7a. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Pollution Control Agency whose duties are defined in Minnesota Statutes, section 116.03.

Subp. 8. **Corrective or protective measure.** "Corrective or protective measure" means a practice, structure, condition, or combination thereof which prevents or reduces the discharge of pollutants from an animal feedlot to a level in conformity with agency rules.

Subp. 9. **County feedlot pollution control officer.** "County feedlot pollution control officer" means a county employee or officer who is knowledgeable in agriculture and who is designated by the county board to receive and process animal feedlot permit applications.

Subp. 10. [Repealed by amendment, L 1987 c 186 s 15]

Subp. 11. **Domestic fertilizer.** "Domestic fertilizer" means:

A. animal manure that is put on or injected into the soil to improve the quality or quantity of plant growth; or

B. animal manure that is used as compost, soil conditioners, or specialized plant beds.

Subp. 12. **Floodplain.** "Floodplain" means the areas adjoining a watercourse which have been or hereafter may be covered by a large flood known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100 year recurrence interval.

Subp. 13. **Interim permit.** "Interim permit" means a permit issued by the commissioner or the county feedlot pollution control officer which expires no longer than ten months from the date of issue.

Subp. 14. **Manure storage area.** "Manure storage area" means an area associated with an animal feedlot where animal manure or runoff containing animal manure is stored until it can be utilized as domestic fertilizer or removed to a permitted animal manure disposal site. Animal manure packs or mounding within the animal feedlot shall not be considered to be manure storage for these parts.

Subp. 15. **New animal feedlot.** "New animal feedlot" means an animal feedlot constructed and operated at a site where no animal feedlot existed previously or where a preexisting animal feedlot has been abandoned or unused for a period of five years or more.

Subp. 16. **National Pollutant Discharge Elimination System (NPDES) permit.** "National Pollutant Discharge Elimination System (NPDES) permit" means a permit issued by the agency for the purpose of regulating the discharge of pollutants from point sources including concentrated animal feeding operations.

Subp. 17. **Owner.** "Owner" means all persons having possession, control, or title to an animal feedlot.

Subp. 18. **Pastures.** "Pastures" means areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

Subp. 19. **Permit.** "Permit" means a document issued by the agency, at no charge to the applicant, which contains requirements, conditions, and compliance schedules relating to the discharge of animal manure pollutants.

Subp. 20. **Potential pollution hazard.** "Potential pollution hazard" means a condition which indicates a potential for pollution of the land or waters of the state including:

A. an animal feedlot or manure storage area whose boundaries are located within shoreland or floodplain, or are located in an area draining directly to a sinkhole or draining to an area with shallow soils overlying a fractured or cavernous rock, or are located within 100 feet of a water well; or

B. an animal feedlot or manure storage area whose construction or operation will allow a discharge of pollutants to surface waters of the state in excess of applicable standards, including, but not limited to, chapters 7050 and 7055, during a rainstorm event of less magnitude than the 25-year, 24-hour event, or will allow uncontrolled seepage of pollutants into the ground water, or will violate any applicable state rules.

Subp. 21. **Shoreland.** "Shoreland" means land located within the following distances from the ordinary high water elevation of public waters:

A. land within 1,000 feet from the normal high water mark of a lake, pond, or flowage; and

B. land within 300 feet of a river or stream or the landward side of floodplain delineated by ordinance on such a river or stream, whichever is greater.

Subp. 22. **Sinkhole.** "Sinkhole" means a surface depression which is connected to a cavernous bedrock (generally limestone) by a channel or collapse of the overlying formation.

Statutory Authority: *MS s 116.07 subd 7*

History: *L 1987 c 186 s 15*

7020.0400 ANIMAL FEEDLOT POLLUTION CONTROL REQUIREMENTS.

Subpart 1. **In general.** No animal feedlot or manure storage area shall be constructed, located, or operated so as to create or maintain a potential pollution hazard unless a certificate of compliance or an agency permit has been issued.

Subp. 2. **Vehicles, spreaders.** All vehicles used to transport animal manure on county, state, and interstate highways or through municipalities shall be leakproof. Manure spreaders with endgates shall be in compliance with this provision provided the endgate works effectively to restrict leakage and the manure spreader is leakproof. This shall not apply to animal manure being hauled to fields adjacent to feedlot operations or fields divided by roadways provided the animal manure is for use as domestic fertilizer.

Subp. 3. **Manure storage.** Animal manure, when utilized as domestic fertilizer, shall not be stored for longer than one year and shall be applied at rates not exceeding local agricultural crop nutrient requirements except where allowed by permit. Local agricultural crop nutrient requirements can be obtained at local Soil Conservation Service offices or local Agricultural Extension Service offices.

Subp. 4. **Animal manure.** Any animal manure not utilized as domestic fertilizer shall be treated or disposed of in accordance with applicable state rules.

Subp. 5. **Owner's duties.** The owner of any animal feedlot shall be responsible for the storage, transportation, and disposal of all animal manure generated in a manner consistent with the provisions herein.

Statutory Authority: *MS s 116.07 subd 7*

7020.0500 PERMIT PROCEDURES.

Subpart 1. **Application.** The owner of a proposed or existing animal feedlot for greater than ten animal units shall make application to the commissioner for a permit when any of the following conditions exist:

- A. a new animal feedlot is proposed;
- B. a change in operation of an existing animal feedlot is proposed;
- C. ownership of an existing animal feedlot is changed; or

D. a National Pollutant Discharge Elimination System (NPDES) permit application is required under state or federal rules and regulations.

Subp. 1a. **Potential pollution hazard.** The owner of any animal feedlot shall be required to make an application for a permit when an inspection by the agency staff or a county feedlot pollution control officer determines that the animal feedlot creates or maintains a potential pollution hazard.

Subp. 2. **Contents of application.** The permit application shall include the following items:

A. A completed permit application form listing all owners and signed by at least one of the owners, including animal types, the maximum number of animals of each type which can be confined at the animal feedlot, the location of the animal feedlot, soil conditions, and hydrogeological conditions.

B. A map or aerial photograph showing the location of all wells, buildings, lakes, and watercourses within 1,000 feet of the proposed feedlot.

C. A manure management plan including manure handling and application techniques, acreage available for manure application, and plans for any proposed manure storage structure. Any plans for manure storage structures of 500,000 gallons capacity or larger shall have been prepared or approved by a registered professional engineer or a soil conservation service employee.

D. Such additional information relating to the specific site or the specific feedlot operation as may be requested by the commissioner to evaluate compliance with federal and state rules.

Subp. 3. **More than one owner.** When more than one person is in possession, control, or has title to a single animal feedlot, only one person needs to apply for an animal feedlot permit; however, the permit application must list all owners in accordance with subpart 2, item A. All owners are responsible for compliance with these parts and permits or certificates of compliance issued pursuant to these parts.

Subp. 4. **Application review.** The animal feedlot permit application shall be reviewed by the county feedlot pollution control officer or by the commissioner if a county permit processing program has not been implemented in the county where the animal feedlot will be located.

A. No permit shall be required when the review of the application indicates that all animal manures are being used as domestic fertilizer and that a potential pollution hazard does not exist or that potential pollution hazards have been satisfactorily addressed by corrective or protective measures. However, a certificate of compliance shall be obtained by the owner of such an animal feedlot prior to commencing operation of the new feedlot, changing the operation of an existing feedlot, or changing ownership of an existing feedlot.

B. The agency shall consider the issuance of a permit when the review indicates that a potential pollution hazard exists and has not been addressed by corrective or protective measures or when manure is not being used as a domestic fertilizer.

(1) An interim permit shall be issued by the commissioner when the potential pollution hazard will be corrected within ten months of the date of permit issuance. When all necessary corrective and protective measures have been installed on a permitted animal feedlot, the permit shall terminate and a certificate of compliance shall be issued.

(2) An animal feedlot permit may be issued by the agency when the potential pollution hazard will not be corrected within ten months of the date of permit issuance or when manure is not used as a domestic fertilizer. This permit shall contain such conditions and requirements as the agency deems necessary in order to insure compliance with applicable state rules.

(3) If it is determined during the review process that an animal feedlot must obtain a National Pollutant Discharge Elimination System (NPDES) permit, the applicant shall be notified and a permit shall be processed and issued as prescribed in chapter 7070.

Statutory Authority: *MS s 116.07 subd 7*

History: *L 1987 c 186 s 15*

7020.0600 EXISTING PERMITS FOR THE CONSTRUCTION AND OPERATION OF LIVESTOCK FEEDLOTS, POULTRY FEEDLOTS, AND OTHER ANIMAL LOTS.

The conditions and provisions of all agency animal feedlot permits issued under Minnesota rules SW 51 to 61 before December 25, 1979, shall continue to be in effect. Upon application for a change in operation or change of ownership of an existing, permitted animal feedlot, the permit shall be reconsidered pursuant to these parts.

Statutory Authority: *MS s 116.07 subd 7*

7020.0700 PROCEDURAL RULES AND APPEALS.

All requests for hearings, appeals, and other procedural matters not specifically provided for herein shall be governed by the agency rules of procedure, the rules of the Office of Administrative Hearings, and other applicable statutes and rules.

Statutory Authority: *MS s 116.07 subd 7*

7020.0800 SEVERABILITY.

If any provision of parts 7020.0200 to 7020.0900 or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions of parts 7020.0200 to 7020.0900 or application of any other part which can be given effect without application of the invalid provision. To this end the provisions of all parts and subparts herein and the various applications thereof are declared to be severable.

Statutory Authority: *MS s 116.07 subd 7*

7020.0900 VARIANCE.

Any person may apply for a variance from any requirements of parts 7020.0200 to 7020.0900. Such variances shall be applied for and acted upon by the agency in accordance with Minnesota Statutes, section 116.07, subdivision 5 and other applicable statutes and rules.

Statutory Authority: *MS s 116.07 subd 7*

**PROCESSING OF ANIMAL FEEDLOT PERMIT
APPLICATIONS BY COUNTIES****7020.1500 SCOPE.**

Any Minnesota county board may, by resolution, assume responsibility for processing applications for animal feedlot permits as authorized by Minnesota Statutes, section 116.07, subdivision 7. The provisions of parts 7020.1500 to 7020.1900 shall govern the exercise of approval and supervising authority by the agency with respect to the processing of animal feedlot permit applications by a county.

Statutory Authority: *MS s 116.07 subd 7*

7020.1600 COUNTY PROCESSING PROCEDURE FOR ANIMAL FEEDLOT PERMIT APPLICATIONS.

Subpart 1. **Duties of county board.** Any Minnesota county board desiring to assume responsibility for processing animal feedlot permit applications shall:

A. Submit to the commissioner a resolution duly adopted by the county board requesting permission to process animal feedlot permit applications in the county. Such resolution shall be accompanied by a statement describing the permit application processing procedure to be used by the county.

B. Receive written approval from the agency authorizing the processing of animal feedlot permit applications within the county.

C. Designate a county feedlot pollution control officer as having the primary responsibility for the animal feedlot permit program and charge the person with the following duties:

(1) distribute permit application forms made available by the commissioner to those required to make application for the permit;

(2) provide, where requested, assistance to applicants to ensure that application forms are properly completed;

(3) receive and review completed application forms and conduct such inspections as necessary to determine if the proposed animal feedlot will comply with applicable state rules and applicable local ordinances; and

(4) maintain a record of all correspondence and material relating to animal feedlot applications, certificates of compliance, and interim permits issued by the county.

Subp. 2. Procedures. The processing of applications for animal feedlot permits by a county board, as defined in Minnesota Statutes, section 116.07, subdivision 7, clauses (a), (b), and (c), shall be accomplished according to the following procedure:

A. For animal feedlots with less than 1,000 animal units where manure is used as a domestic fertilizer and with no potential pollution hazard, the county feedlot pollution control officer shall provide a certificate of compliance to the agency and the applicant stating that the animal feedlots comply with all aspects of parts 7020.0200 to 7020.0900 and that no animal feedlot permit is required.

B. For animal feedlots of less than 300 animal units where manure is used as a domestic fertilizer and where all potential pollution hazards have been mitigated by protective or corrective measures the county feedlot pollution control officer shall provide a certificate of compliance to the agency and to the applicant stating that the animal feedlots comply with parts 7020.0200 to 7020.0900 and that no animal feedlot permit is required.

C. The county feedlot pollution control officer shall forward to the commissioner, with recommendations and comments, all animal feedlot permit applications which fall within the following categories:

- (1) animal feedlots of 1,000 animal units or more;
- (2) animal feedlots of more than 300 animal units where a potential pollution hazard has been mitigated through corrective or protective measures;
- (3) animal feedlots with a potential pollution hazard which has not been mitigated by corrective or protective measures;
- (4) animal feedlots where manure is not used as domestic fertilizer; or
- (5) animal feedlots for which further technical review is desired by the county feedlot pollution control officer.

Subp. 3. Interim permits. Any county board which has assumed responsibility for processing feedlot permit applications in accordance with subpart 1, may issue, deny, modify, impose conditions upon, or revoke interim permits for animal feedlots smaller than 300 animal units where animal manure is used as a domestic fertilizer and with a potential pollution hazard which will be mitigated by corrective or protective measures within ten months of the date of the issuance of the interim animal feedlot permit. These permits shall be issued, denied, modified, have conditions imposed upon them, or revoked in conformance with the following requirements:

A. In order for the county to issue an interim permit:

(1) The commissioner must receive written notification of the intention of the county to issue an interim permit. Such notification must include the completed permit application, a copy of the draft interim permit proposed for issuance by the county, and documentation concerning the potential pollution hazard and the corrective or protective measures to be taken by the owner.

(2) The commissioner shall, after receipt of written notification of intent to issue an interim permit, review the draft interim permit within 15 days to determine compliance with applicable agency rules and shall approve, suspend, modify, or reverse the issuance of the interim permit. If the commissioner approves issuance of the interim permit, the interim permit and a certificate for display shall be returned to the county for issuance to the operator. If the commissioner suspends, modifies, or reverses the issuance of the interim permit, the applicant retains all rights of appeal set out in part 7020.1700. If the commissioner fails to act within 15 days after receipt of the draft interim permit from the county, the county may proceed to issue the interim permit.

B. In order for a county to modify or impose conditions upon a interim permit the county shall notify the commissioner in writing of its intention to modify or impose conditions upon an interim animal feedlot permit. Such notification must include a

copy of the interim permit together with the intended modifications and conditions. The commissioner shall determine compliance with the provisions of applicable agency rules and shall either approve, suspend, further modify, or reverse the recommended modification or conditions within 15 days of receipt of the aforementioned notice of intent. The county shall be notified of said agency action. The applicant retains all rights of appeal set out in part 7020.1700.

C. In order for a county to revoke an interim permit a copy of the interim permit together with a written justification for revocation must be submitted to the commissioner for review. The commissioner shall, after receipt of the justification for revocation by the county, review the matter within 15 days to determine compliance with the provisions of applicable agency rules. The county must receive written approval of the interim permit revocation from the agency prior to taking action. Where a revocation has been approved by the agency, the applicant must be informed in writing by the county of the reasons for revocation and the applicant shall retain all rights of appeal set out in part 7020.1700.

D. In the case of a denial of an interim permit application by the county board, the applicant shall be informed by the county in writing of the reasons for denial and shall be informed of applicable appeal procedures. The applicant shall retain all rights of fundamental fairness afforded by law and the applicant may make an appeal to the agency to review the county's action. Such a denial by a county shall be without prejudice to the applicant's right to an appearance before the agency to request a public hearing or to file a further application after revisions are made to meet objections specified as reasons for denial. The agency shall approve, suspend, modify, or reverse the denial of an interim permit if the matter has been appealed to the agency.

Subp. 4. **Termination of interim permits.** If the county has issued an interim permit, the county feedlot pollution control officer shall terminate the permit and issue a certificate of compliance when all necessary corrective and protective measures have been installed.

Subp. 5. **Commissioner review.** The commissioner shall review within 15 days all animal feedlot permit applications forwarded by the county and shall notify the county of the status of the review and of any intended action with respect to all properly completed animal feedlot permit applications.

Subp. 6. **Withdrawal by county from review process.** A county no longer wishing to continue in the application review process shall submit a resolution stating its reasons for withdrawal and the effective date of withdrawal to the commissioner.

Subp. 7. **Revocation of county review authority.** If the agency finds that a county program is not meeting the requirements of these parts, the agency may, after giving the county written notice and an opportunity to respond, revoke its approval of the county's application review authority.

Statutory Authority: *MS s 116.07 subd 7*

History: *L 1987 c 186 s 15; 17 SR 1279*

7020.1700 PROCEDURAL RULES AND APPEALS.

All requests for hearings, appeals, and other procedural matters not specifically provided for herein shall be governed by the agency rules of procedure, the rules of the Office of Administrative Hearings, and other applicable statutes and rules.

Statutory Authority: *MS s 116.07 subd 7*

7020.1800 SEVERABILITY.

If any provision of parts 7020.1500 to 7020.1900 or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions of parts 7020.1500 to 7020.1900 or application of any other part which can be given effect without application of the invalid provision. To this end the provisions

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of all parts and subparts herein and the various applications thereof are declared to be severable.

Statutory Authority: *MS s 116.07 subd 7*

7020.1900 VARIANCES.

Any person may apply for a variance from any requirements of parts 7020.1500 to 7020.1900. Such variances shall be applied for and acted upon by the agency in accordance with Minnesota Statutes, section 116.07, subdivision 5, and other applicable statutes and rules.

Statutory Authority: *MS s 116.07 subd 7*