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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

**EIGHTY-NINTH SESSION**

**H. F. No. 1161**

02/23/2015 Authored by Fabian; Johnson, C.; Gunther; Hamilton and McNamara

The bill was read for the first time and referred to the Committee on Agriculture Policy

03/19/2015 Adoption of Report: Amended and re-referred to the Committee on Environment and Natural Resources Policy and Finance

1.1 A bill for an act  
1.2 relating to pollution control; providing for permitting of private truck wash  
1.3 facilities operated as part of feedlot operation; amending Minnesota Statutes  
1.4 2014, section 116.07, subdivision 7.

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

1.6 Section 1. Minnesota Statutes 2014, section 116.07, subdivision 7, is amended to read:

1.7 Subd. 7. **Counties; processing of applications for animal lot permits.** Any  
1.8 Minnesota county board may, by resolution, with approval of the Pollution Control  
1.9 Agency, assume responsibility for processing applications for permits required by the  
1.10 Pollution Control Agency under this section for livestock feedlots, poultry lots or other  
1.11 animal lots. The responsibility for permit application processing, if assumed by a county,  
1.12 may be delegated by the county board to any appropriate county officer or employee.

1.13 (a) For the purposes of this subdivision, the term "processing" includes:

1.14 (1) the distribution to applicants of forms provided by the Pollution Control Agency;

1.15 (2) the receipt and examination of completed application forms, and the certification,  
1.16 in writing, to the Pollution Control Agency either that the animal lot facility for which a  
1.17 permit is sought by an applicant will comply with applicable rules and standards, or, if  
1.18 the facility will not comply, the respects in which a variance would be required for the  
1.19 issuance of a permit; and

1.20 (3) rendering to applicants, upon request, assistance necessary for the proper  
1.21 completion of an application.

1.22 (b) For the purposes of this subdivision, the term "processing" may include, at the  
1.23 option of the county board, issuing, denying, modifying, imposing conditions upon, or  
1.24 revoking permits pursuant to the provisions of this section or rules promulgated pursuant

2.1 to it, subject to review, suspension, and reversal by the Pollution Control Agency. The  
2.2 Pollution Control Agency shall, after written notification, have 15 days to review, suspend,  
2.3 modify, or reverse the issuance of the permit. After this period, the action of the county  
2.4 board is final, subject to appeal as provided in chapter 14. For permit applications filed  
2.5 after October 1, 2001, section 15.99 applies to feedlot permits issued by the agency or a  
2.6 county pursuant to this subdivision.

2.7 (c) For the purpose of administration of rules adopted under this subdivision, the  
2.8 commissioner and the agency may provide exceptions for cases where the owner of a  
2.9 feedlot has specific written plans to close the feedlot within five years. These exceptions  
2.10 include waiving requirements for major capital improvements.

2.11 (d) For purposes of this subdivision, a discharge caused by an extraordinary natural  
2.12 event such as a precipitation event of greater magnitude than the 25-year, 24-hour event,  
2.13 tornado, or flood in excess of the 100-year flood is not a "direct discharge of pollutants."

2.14 (e) In adopting and enforcing rules under this subdivision, the commissioner shall  
2.15 cooperate closely with other governmental agencies.

2.16 (f) The Pollution Control Agency shall work with the Minnesota Extension Service,  
2.17 the Department of Agriculture, the Board of Water and Soil Resources, producer groups,  
2.18 local units of government, as well as with appropriate federal agencies such as the Natural  
2.19 Resources Conservation Service and the Farm Service Agency, to notify and educate  
2.20 producers of rules under this subdivision at the time the rules are being developed and  
2.21 adopted and at least every two years thereafter.

2.22 (g) The Pollution Control Agency shall adopt rules governing the issuance and  
2.23 denial of permits for livestock feedlots, poultry lots or other animal lots pursuant to this  
2.24 section. Pastures are exempt from the rules authorized under this paragraph. A feedlot  
2.25 permit is not required for livestock feedlots with more than ten but less than 50 animal  
2.26 units; provided they are not in shoreland areas. A livestock feedlot permit does not  
2.27 become required solely because of a change in the ownership of the buildings, grounds,  
2.28 or feedlot. These rules apply both to permits issued by counties and to permits issued  
2.29 by the Pollution Control Agency directly.

2.30 (h) The Pollution Control Agency shall exercise supervising authority with respect  
2.31 to the processing of animal lot permit applications by a county.

2.32 (i) Any new rules or amendments to existing rules proposed under the authority  
2.33 granted in this subdivision, or to implement new fees on animal feedlots, must be  
2.34 submitted to the members of legislative policy and finance committees with jurisdiction  
2.35 over agriculture and the environment prior to final adoption. The rules must not become  
2.36 effective until 90 days after the proposed rules are submitted to the members.

3.1 (j) Until new rules are adopted that provide for plans for manure storage structures,  
3.2 any plans for a liquid manure storage structure must be prepared or approved by a  
3.3 registered professional engineer or a United States Department of Agriculture, Natural  
3.4 Resources Conservation Service employee.

3.5 (k) A county may adopt by ordinance standards for animal feedlots that are more  
3.6 stringent than standards in Pollution Control Agency rules.

3.7 (l) After January 1, 2001, a county that has not accepted delegation of the feedlot  
3.8 permit program must hold a public meeting prior to the agency issuing a feedlot permit  
3.9 for a feedlot facility with 300 or more animal units, unless another public meeting has  
3.10 been held with regard to the feedlot facility to be permitted.

3.11 (m) After the proposed rules published in the State Register, volume 24, number 25,  
3.12 are finally adopted, the agency may not impose additional conditions as a part of a feedlot  
3.13 permit, unless specifically required by law or agreed to by the feedlot operator.

3.14 (n) For the purposes of feedlot permitting, a discharge from land-applied manure  
3.15 or a manure stockpile that is managed according to agency rule must not be subject to  
3.16 a fine for a discharge violation.

3.17 (o) For the purposes of feedlot permitting, manure that is land applied, or a manure  
3.18 stockpile that is managed according to agency rule, must not be considered a discharge  
3.19 into waters of the state, unless the discharge is to waters of the state, as defined by  
3.20 section 103G.005, subdivision 17, except type 1 or type 2 wetlands, as defined in section  
3.21 103G.005, subdivision 17b, and does not meet discharge standards established for feedlots  
3.22 under agency rule.

3.23 (p) Unless the upgrade is needed to correct an immediate public health threat under  
3.24 section 145A.04, subdivision 8, or the facility is determined to be a concentrated animal  
3.25 feeding operation under Code of Federal Regulations, title 40, section 122.23, in effect on  
3.26 April 15, 2003, the agency may not require a feedlot operator:

3.27 (1) to spend more than \$3,000 to upgrade an existing feedlot with less than 300  
3.28 animal units unless cost-share money is available to the feedlot operator for 75 percent of  
3.29 the cost of the upgrade; or

3.30 (2) to spend more than \$10,000 to upgrade an existing feedlot with between 300  
3.31 and 500 animal units, unless cost-share money is available to the feedlot operator for 75  
3.32 percent of the cost of the upgrade or \$50,000, whichever is less.

3.33 (q) For the purposes of this section, "pastures" means areas, including winter feeding  
3.34 areas as part of a grazing area, where grass or other growing plants are used for grazing  
3.35 and where the concentration of animals allows a vegetative cover to be maintained during  
3.36 the growing season except that vegetative cover is not required:

4.1 (1) in the immediate vicinity of supplemental feeding or watering devices;

4.2 (2) in associated corrals and chutes where livestock are gathered for the purpose of  
4.3 sorting, veterinary services, loading and unloading trucks and trailers, and other necessary  
4.4 activities related to good animal husbandry practices; and

4.5 (3) in associated livestock access lanes used to convey livestock to and from areas  
4.6 of the pasture.

4.7 (r) A permit to land apply industrial byproducts is not required for a feedlot operator  
4.8 who stores and applies up to 100,000 gallons of private truck wash wastewater per  
4.9 year in accordance with Pollution Control Agency requirements for nonpermitted land  
4.10 applications of industrial byproduct.

4.11 (s) A feedlot operator who holds a permit from the Pollution Control Agency to land  
4.12 apply industrial byproducts from a private truck wash is exempt from:

4.13 (1) all permit sampling and analysis requirements, however private truck wash  
4.14 wastewater must be sampled and analyzed for phosphorus and nitrogen to determine  
4.15 agronomic rates prior to land application; and

4.16 (2) any requirement that a certified land applicator apply the private truck wash  
4.17 wastewater so long as the wastewater is applied by the feedlot operator to cropland owned  
4.18 or leased by the feedlot operator or by a commercial animal waste technician licensed by  
4.19 the commissioner of agriculture under chapter 18C.

4.20 For purposes of this paragraph and paragraph (r), "private truck wash" means a truck  
4.21 washing facility owned, operated, and used only by a feedlot operator to wash trucks  
4.22 owned or leased by the feedlot operator and used to transport animals or supplies to and  
4.23 from the feedlot.