

SENATE
STATE OF MINNESOTA
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S.F. No. 2344

(SENATE AUTHORS: WESTROM)

DATE	D-PG	OFFICIAL STATUS
03/11/2019	780	Introduction and first reading Referred to Environment and Natural Resources Policy and Legacy Finance See SF1414, Sec. 35-37 See SF2226

1.1 A bill for an act

1.2 relating to environment; clarifying regulation of pastures and natural deposit of

1.3 manure under feedlot permits; amending Minnesota Statutes 2018, sections 116.06,

1.4 by adding a subdivision; 116.07, subdivisions 7, 7d.

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

1.6 Section 1. Minnesota Statutes 2018, section 116.06, is amended by adding a subdivision

1.7 to read:

1.8 Subd. 16a. Pastures. "Pastures" means areas, including winter feeding areas as part of

1.9 a grazing area, where grass or other growing plants are used for grazing livestock and where

1.10 the concentration of animals allows a vegetative cover to be maintained during the growing

1.11 season. Pastures includes agricultural land that is used for growing crops during the growing

1.12 season and is used for grazing livestock on vegetation or crop residues during the winter.

1.13 In either case, a cover of vegetation or crop residues is not required:

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

1.15 (2) in associated corrals and chutes where livestock are gathered for sorting, veterinary

1.16 services, loading and unloading trucks and trailers, and other necessary activities related to

1.17 good animal husbandry practices;

1.18 (3) in associated livestock access lanes used to convey livestock to and from areas of

1.19 the pastures; and

1.20 (4) in sacrificial areas that are part of a larger pasture system and are used to temporarily

1.21 accommodate livestock and protect other pasture areas when adverse soil or weather

1.22 conditions pose a risk of damaging the pastures and on which the vegetation is naturally

2.1 restored or replanted after the adverse soil or weather conditions are removed and the
2.2 livestock are moved to other areas of the pastures.

2.3 Sec. 2. Minnesota Statutes 2018, section 116.07, subdivision 7, is amended to read:

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

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

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

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

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

2.19 (b) For the purposes of this subdivision, the term "processing" may include, at the option
2.20 of the county board, issuing, denying, modifying, imposing conditions upon, or revoking
2.21 permits pursuant to the provisions of this section or rules promulgated pursuant to it, subject
2.22 to review, suspension, and reversal by the Pollution Control Agency. The Pollution Control
2.23 Agency shall, after written notification, have 15 days to review, suspend, modify, or reverse
2.24 the issuance of the permit. After this period, the action of the county board is final, subject
2.25 to appeal as provided in chapter 14. For permit applications filed after October 1, 2001,
2.26 section 15.99 applies to feedlot permits issued by the agency or a county pursuant to this
2.27 subdivision.

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

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

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

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

3.12 (g) The Pollution Control Agency shall adopt rules governing the issuance and denial
3.13 of permits for livestock feedlots, poultry lots or other animal lots pursuant to this section.
3.14 Pastures are exempt from the rules authorized under this paragraph, and a feedlot permit
3.15 must not include any terms or conditions that impose requirements related to pastures located
3.16 on, adjacent to, or in the vicinity of the feedlot. A feedlot permit is not required for livestock
3.17 feedlots with more than ten but less than 50 animal units; provided they are not in shoreland
3.18 areas. A livestock feedlot permit does not become required solely because of a change in
3.19 the ownership of the buildings, grounds, or feedlot. These rules apply both to permits issued
3.20 by counties and to permits issued by the Pollution Control Agency directly.

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

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

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

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

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

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

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

4.11 (o) For the purposes of feedlot permitting, manure that is land applied, or a manure
4.12 stockpile that is managed according to agency rule, must not be considered a discharge into
4.13 waters of the state, unless the discharge is to waters of the state, as defined by section
4.14 103G.005, subdivision 17, except type 1 or type 2 wetlands, as defined in section 103G.005,
4.15 subdivision 17b, and does not meet discharge standards established for feedlots under agency
4.16 rule.

4.17 (p) The natural deposit of manure by livestock on pastures is not considered a discharge
4.18 into waters of the state and is not subject to any fine or penalty.

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

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

4.26 (2) to spend more than \$10,000 to upgrade an existing feedlot with between 300 and
4.27 500 animal units, unless cost-share money is available to the feedlot operator for 75 percent
4.28 of the cost of the upgrade or \$50,000, whichever is less.

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

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

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

5.4 ~~(3) in associated livestock access lanes used to convey livestock to and from areas of~~
 5.5 ~~the pasture.~~

5.6 (r) A feedlot operator who stores and applies up to 100,000 gallons per calendar year of
 5.7 private truck wash wastewater resulting from trucks that transport animals or supplies to
 5.8 and from the feedlot does not require a permit to land-apply industrial by-products if the
 5.9 feedlot operator stores and applies the wastewater in accordance with Pollution Control
 5.10 Agency requirements for land applications of industrial by-product that do not require a
 5.11 permit.

5.12 (s) A feedlot operator who holds a permit from the Pollution Control Agency to
 5.13 land-apply industrial by-products from a private truck wash is not required to have a certified
 5.14 land applicator apply the private truck wash wastewater if the wastewater is applied by the
 5.15 feedlot operator to cropland owned or leased by the feedlot operator or by a commercial
 5.16 animal waste technician licensed by the commissioner of agriculture under chapter 18C.
 5.17 For purposes of this paragraph and paragraph (r), "private truck wash" means a truck washing
 5.18 facility owned or leased, operated, and used only by a feedlot operator to wash trucks owned
 5.19 or leased by the feedlot operator and used to transport animals or supplies to and from the
 5.20 feedlot.

5.21 Sec. 3. Minnesota Statutes 2018, section 116.07, subdivision 7d, is amended to read:

5.22 Subd. 7d. **Exemption.** ~~(a)~~ Notwithstanding subdivision 7 or Minnesota Rules, chapter
 5.23 7020, to the contrary, and notwithstanding the proximity to public or private waters, an
 5.24 owner or resident of agricultural land on which livestock have been allowed to pasture at
 5.25 any time during the ten-year period beginning January 1, 2010, is permanently exempt from
 5.26 requirements related to feedlot or manure management on that land for so long as the property
 5.27 remains in pasture.

5.28 ~~(b) For the purposes of this subdivision, "pasture" means areas where livestock graze~~
 5.29 ~~on grass or other growing plants. Pasture also means agricultural land where livestock are~~
 5.30 ~~allowed to forage during the winter time and which land is used for cropping purposes in~~
 5.31 ~~the growing season. In either case, the concentration of animals must be such that a vegetative~~
 5.32 ~~cover, whether of grass, growing plants, or crops, is maintained during the growing season~~
 5.33 ~~except in the immediate vicinity of temporary supplemental feeding or watering devices.~~