

FEEDLOT PERMITTING IN MINNESOTA

If you are a livestock producer planning to build a new feedlot, or expand or modernize an existing one, you are faced with a variety of federal, state, and local regulations. The process for gaining approval for a feedlot project may seem daunting and time consuming. The purpose of this booklet is to help you understand and navigate the process successfully.

It begins with a section called “Getting Started,” which contains a checklist of steps you can take to make the best use of your time and resources, while trying to minimize confusion and frustration of the process. It is followed by an overview of federal, state, and local regulations, and the feedlot permitting process. Finally, it includes a worksheet for you to use in your meetings with state and local officials, to make sure you have all your questions answered, and get the information you need.



GETTING STARTED

Hint: As you consult with officials, take detailed notes. You may want to email or send a letter to the official summarizing what you heard and asking for their confirmation (and of course thanking them for their time).

Below is a checklist of steps you should take when seeking permits to modernize, expand, or build a new livestock facility in Minnesota. The checklist will help you determine what to do first, where you can get answers to your questions, and how to avoid unnecessary costs and frustration.

Develop a rough concept of your feedlot modernization, expansion, or new feedlot project.

At this point, you should not spend any significant amount of money on plans, drawings, or engineering; you just want a “rough sketch” of what you want to accomplish in terms of animal numbers, building types and sizes, manure handling and storage methods, and location on the site. If you don’t know where to start,

Consult with local Extension Educators, representatives of your producer or farm organizations, the Minnesota Department of Agriculture (MDA) livestock specialists, other professionals in the field, or other producers in your area that you have a good relationship with.

They may be able to provide you with valuable tips on how to evaluate the costs of permitting and building versus return on investment, how to handle public and neighbor relations, or how to anticipate and control potential legal risks and costs.

Get the “big picture” of the feedlot permit process

And the requirements you will have to meet; federal, state, and local. The major requirements likely apply to your project are the Minnesota Feedlot Rules (Minn. Rules Chapter 7020, often referred to as the “7020 rules”) and the local zoning and/or feedlot ordinance. Permits you will need will vary depending on your project size and characteristics. At the local level, projects over a certain size may require a conditional use permit, which involves a public hearing. To get informed about requirements, we suggest visiting with your local county feedlot officer (if your county has one), your local zoning administrator, your regional Minnesota Pollution Control Agency (MPCA) feedlot staff person and/or a livestock specialist from the MDA. List of MPCA and county feedlot contacts can be found on the MPCA website under the “water” category and then by clicking on “feedlots.” Use the attached “Producer Worksheet for Preapplication Meeting/Site Visit” to make sure you get all the information that you need. Beginning on page 4 is a summary of federal, state, and local requirements. Another helpful resource is the Feedlot Decision-Making Tool, available on the MDA website under “Animals and Livestock.”

Uncover any potential problems or opportunities that may be present on or near your site.

Does the zoning district allow the type and size of feedlot you are thinking about? Is the site likely to pose challenges because of proximity to a water body, location in a floodplain, the presence of sinkholes, proximity to a public water supply well, etc.? Again, your county feedlot officer, your local zoning administrator or regional MPCA staff person is probably your best source for this information.

Make sure you will be able to meet local requirements

Before investing time and money in plans and engineering. Again, your best is to consult with your county feedlot officer or your local zoning administrator. If your township has planning and zoning authority, you should also consult with the appropriate township official. If your township does not have planning and zoning authority, the county may still advise you to consult with the township in order to identify any concerns they may have with your proposal (this could be a formal or informal process depending on county and township zoning ordinances). In addition to finding the requirements and permit application procedures, ask whether there is likely to be opposition from individuals or groups in the area and what suggestions the official may have to address the concerns of these individuals or groups. You can consult your MDA livestock specialist to get information regarding county and township ordinances and the requirements within. Rough outlines of county ordinances can be found on the MDA website under “Animals and Livestock” and by clicking on the interactive map of the state and clicking again, on the county you want to review.

Get a feel for your neighbors’ opinions and concerns before going too far with plans.

MDA suggests visiting with all your neighbors within a two mile radius of your project. Explain your proposal and discuss who you have spoken with already and the rules you will need to follow. After visiting with neighbors individually, it may be beneficial to utilize the town hall or invite the neighbors back to your home or farm and give them an update on how you addressed original concerns and allow for some additional conversation. Determine what concerns are out there and do your best to address and accommodate reasonable requests. Examples of common concerns are dust, odor, noise, hours of operation, flies, manure storage, manure handling and application, road repair, and increased traffic. There may be some simple accommodations that can be made to address these concerns and make the permitting process less contentious. The MDA livestock specialists are available to assist you in working out your project timeline, assist in permitting to ensure it is complete, on time, and meets all the requirements, and working with neighbor relations.

Prepare your application and submit it to the county and/or regional MPCA office. MDA livestock specialists are available to assist you in this process to ensure the application and all other additional required submittals are complete. Your local county feedlot officer or regional MPCA staff may also be willing to assist you in this part as well.

FEEDLOT REGULATIONS IN MINNESOTA

Which regulations apply to your feedlot project and what permits are required depends on the projects size, characteristics, and proximity to other land uses and features. Below is a general overview of some of the key regulations in Minnesota pertaining to livestock. Sources of additional information can be found on page 11 of this booklet. Your county feedlot officer and local zoning administrator can also provide you with more information.

Federal and State Regulations

A number of other federal and state regulations apply to livestock facilities. Key among them are federal regulations on Animal Feeding Operations (AFOs) and Concentrated Animal Feeding Operations (CAFOs), the Minnesota Feedlot Rules, and the Minnesota Environmental Review Program Rules.

FEDERAL AFO AND CAFO REGULATIONS AND MINNESOTA FEEDLOT RULES

(FEDERAL REGULATIONS 40 CFR 122, 40 CFR 123, AND MINNESOTA FEEDLOT RULES, MINN. RULES CHAPTER 7020)

Federal laws regulating Animal Feeding Operations (AFOs) and Concentrated Animal Feeding Operations (CAFOs) stem from the 1972 Clean Water Act. In Minnesota, these laws are administered by the Minnesota Pollution Control Agency's Feedlot Program through the Minnesota Feedlot Rules, and through the MPCA's administration of the National Pollutant Discharge Elimination System (NPDES) permit program.

The Feedlot Rules regulate storage, transportation, and utilization of manure. The Rules contain sections on registration and permitting of feedlots, the delegated county program (which is an optional agreement between the MPCA and the county which allows the county to administer the feedlot rules for all feedlot sites not requiring a federal permit), and technical standards for discharge, design, construction, operation, and closure.

In review of permits, delegated counties or MPCA staff will be reviewing for conformance with other state laws as well, including state standards for surface water quality (Minn. Rules Chapter 7050), groundwater quality (Minn. Rules Chapter 7060), and air quality (Ambient Air Quality Standards, Minn. Rules Chapter 7009).

The Feedlot Rules contain location restrictions and expansion limitations around sensitive features such as lakes, rivers, streams, floodplains, sinkholes, and certain wells. Your county feedlot officer, planning and zoning

administrator, or environmental services administrator can help you determine if your project is within any of these restricted locations.

The MDA's *Animals and Feed* web page contains more information on the Feedlot Rules, including the *Minnesota Livestock Producer's Guide to the Rules*, and the *Feedlot Decision-Making Tool*. The Minnesota Pollution Control Agency *Feedlot Program* web page contains a large amount of information on the rules, including numerous fact sheets. See "For More Information" on page 7 of this booklet.

ENVIRONMENTAL REVIEW

(MINN. RULES CHAPTER 4410)

The MDA's *Animals and Livestock* web page contains more information on the Feedlot Rules by clicking on Minnesota's Animal and Livestock Producers Feedlot Resources and by visiting the MPCA website and clicking on Water to review their numerous factsheets on the different rules. The MDA livestock specialists are also available to explain the rule requirements or answer any questions.

An assessment of environmental impacts of a project, or "environmental review," is required for larger facilities. Generally, environmental review is required for construction or expansion projects of 1,000 animal units (AU) or more, or 500 AU when in environmentally sensitive areas.

The Minnesota Environmental Review Program works to achieve a better understanding of the impacts that projects can have on the environment. Information gathered during the environmental review process is provided to government agencies and citizens to aid in the decision-making process for a project. The major document used in the environmental review process for feedlots is the environmental assessment worksheet (EAW). The EAW is meant to be a brief document, used to determine whether more detailed environmental analysis should be performed (the environmental impact statement or EIS), and any permit conditions needed to protect the environment.

The EAW process involves you or your consultant collecting project and site information and submitting the information to your MPCA regional office. The MPCA prepares the EAW, distributes it for comment, and makes the decision whether an EIS is required. The process can take several months.

For information on environmental review, the MPCA fact sheet, *When is Environmental Review Required for Feedlots?* is a good place to start. Additionally, the Environmental Quality Board (EQB) website contains forms, fact sheets, and other guidance on the environmental review process. See “For More Information” on page 7 of this booklet.

WELLHEAD PROTECTION

(MINN. RULES CHAPTER PARTS 4720.5100 – 4720.5590)

Public water systems are required to develop wellhead protection plans, including delineating wellhead protection areas (WHPAs) and drinking water supply management areas (DWSMAs), to ensure that water supplies are safe for drinking water and other public uses. Special requirements apply to land uses in these areas, including livestock operations. Your county feedlot officer, planning and zoning administrator, or environmental services administrator can help you determine if your project is within a WHPA or DWSMA, and what special requirements may apply. See “For More Information” on page 11 of this booklet.

WATER APPROPRIATION

(MINN. RULES CHAPTER 6115)

The Department of Natural Resources (DNR) regulates the withdrawal (appropriation) of water to ensure there is minimal impact on surface and groundwater resources and the environment. A permit is required for a water appropriation greater than 10,000 gallons per day or one million gallons per year. Operations may qualify for a general permit for Water Appropriation of Animal Feedlots and Livestock Operations of up to 5 million gallons per year (the specific conditions of General Permit 2004-0275 can be found on the DNR website. See “For More Information” on page 11 of this booklet). Whether or not a permit is required, and what kind of permit, (individual or general) is based upon the measurement of water use. Permitting decisions are made only after a water source is available (for example, after a well has been drilled). To minimize uncertainty, you may wish to obtain

advice from your DNR area hydrologist for the county in which the project is located, before beginning construction.

CARCASS DISPOSAL

(MINN. RULES CHAPTER 1719)

The Board of Animal Health regulates carcass disposal. Producers must properly dispose of carcasses as soon as reasonably possible by burial, incineration, pick-up by a rendering facility, or composting. See “For More Information” on page 7 of this booklet.

Road Regulations

State and local regulations regulate construction of any new road access for facilities, limit vehicle and equipment weights, and regulate placement of manure drag hoses and pipes in road rights-of-way. County road departments are your best source of information.

Local Regulations

State law requires counties to have and enforce “shoreland regulations,” land use regulations for land within 300 feet of a river or stream or 1,000 feet of a lake, pond, or flowage (Minn. Rules Chapter 6120). In addition, most counties and a number of townships have animal-related local regulations, under their authority to develop comprehensive plans and land use regulations. These regulations vary widely in terms of what they apply to, procedures, and standards. The MDA website provides information on local regulations in the form of an “interactive map,” where you can select a county, obtain a summary of that county’s regulations, and link to the online version of the local ordinance. To learn more about specific township regulations, please contact the MDA livestock specialists.

Local ordinances usually specify where feedlots are permitted and under what conditions. Many counties require a “conditional use permit” (CUP) for feedlots over a certain size. CUPs involve a public hearing, and the local governing body (county or township board, advised by the planning commission) can attach conditions to the permit approval. Some local ordinances allow only feedlots below a certain size (called an “animal unit cap”). Most local ordinances establish a separation distance (often called a “setback”) between a new or expanding feedlot and an existing land use, such as a residence or a church.

As with other permitting information, your best source of information is your county feedlot officer, planning and zoning administrator, or environmental services administrator.

CONTROVERSIAL PROJECTS

Good communication with neighbors, and careful attention to requirements and neighbor relations, can often dispel controversy about a feedlot project. But sometimes a controversy will erupt, even when all the steps of the process have been conscientiously followed. You need to be prepared for potential additional costs and delays when opposition exists. Some of the points in the process where difficulties can arise are:

- For projects that are under the EAW threshold (generally, 1,000 AU or more, or 500 AU when in an environmentally sensitive area), a petition for an EAW can be filed. However, there are steps that a producer can take to exempt the project from environmental review and petitions. You can obtain guidance from the fact sheet, *Revised Environmental Review for Animal Feedlots* on the EQB website, or the fact sheet, *When is Environmental Review Required for Feedlots?* on

the MPCA website. See “For More Information” on page 7 of this booklet.

- Where an EAW is required, a decision by the MPCA to not require an EIS can be appealed.
- Conditional use permit hearings offer individuals an opportunity to testify at a public hearing in support of or in opposition to a project. Also, conditional use permit decisions can be appealed.

The MDA Livestock Development Team can work with you through the entire process of permitting. They will assist in siting feedlots, neighbor relations, permitting, manure management, zoning regulations, environmental issues, and more. Much of their goal is to see you succeed without any controversy, but also to prepare you how to handle it if it does occur. They will recommend to you and work with you on getting your project proposal off to the right start.

THE PERMITTING PROCESS

The permitting process for feedlots is actually two separate processes—county and state/federal—and sometimes three—township, county, and state/federal. In delegated counties, the county and state/federal processing and review, for projects that are not CAFOs, will be done by the county feedlot officer. When the project is a CAFO, the county feedlot officer may initially work with the applicant and accept the application, but the application will at some point be submitted to the regional MPCA office for processing. In non-delegated counties, local processing and review may be done by the county planning and zoning or environmental services department, while the state/federal review will be done at the regional MPCA office.

If the township has planning and zoning authority for feedlots, that process is usually a step in addition to the county planning and zoning process.

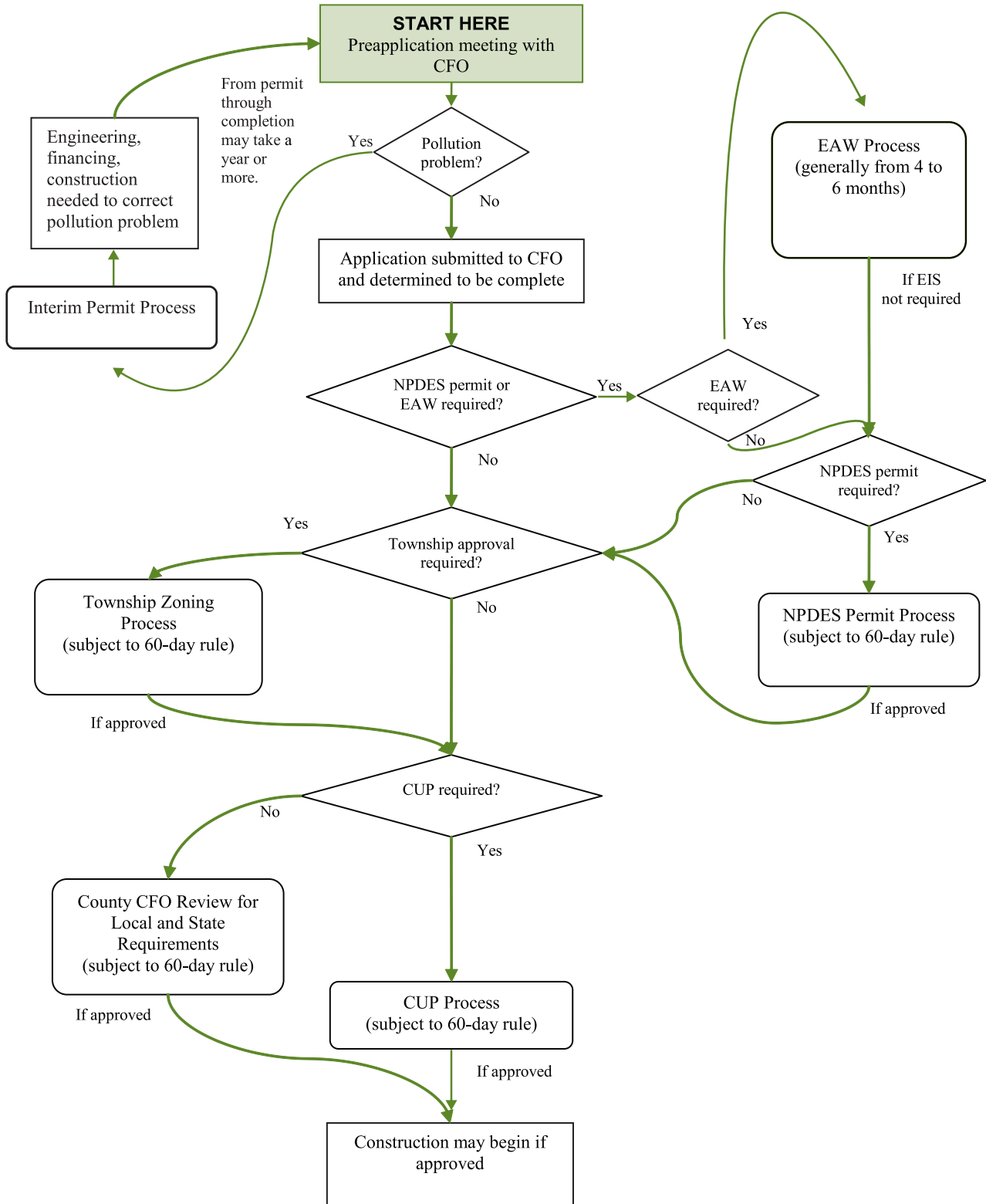
The order in which the local permitting process and the state/federal review process are done varies county-to-county. In some counties, the processing and review for state/federal requirements occurs first. Once that review is

complete, the local review is done. In other counties, local review occurs first. Some counties have the reviews occur in tandem, while in others, the reviews occur one after the other.

The flowchart on page 6 describes the permitting process used by some counties. In this case, the state/federal process occurs before the local process. As mentioned above, the order of permit processes, whether they are parallel or sequential, and whether townships have jurisdiction, varies from county to county.

For all feedlot construction or expansion projects, you are required to notify the MPCA or delegated county feedlot officer and the local zoning authority at least 30 days prior to construction. Public notification is required for feedlots with over 500 animal units. Local ordinances may require you provide additional notification requirements, so in the event you are working on your own or with a livestock specialist from the MDA, contact will be made with the local feedlot officer or zoning administrator to ensure notification is completed properly.

EXAMPLE OF A FEEDLOT PERMITTING PROCESS IN A MINNESOTA COUNTY



FOR MORE INFORMATION

Information on the Web

Minnesota Department of Agriculture

Livestock-related information can be found on the Animals and Livestock page of the MDA website at: www.mda.state.mn.us/animals.aspx or by calling 651-201-6456

Minnesota Pollution Control Agency

The Feedlot Program web page contains a large amount of livestock-related information, including links to Feedlot Rules, and many fact sheets, at: www.pca.state.mn.us/index.php/topics/feedlots/feedlots.html or call 651-757-2855

Minnesota Department of Health

The Source Water Protection web page contains information and links on public wells, wellhead protection, and drinking water supply management, at: www.health.state.mn.us/divs/eh/water/swp Or call 651-201-4700, or toll free: 1-800-818-9318.

Minnesota Board of Animal Health

Information on carcass disposal can be found on the BAH website at: www.bah.state.mn.us/bah/carcass-disposal/index.html Or call 651-296-2942.

Minnesota Environmental Quality Board

The Environmental Review Program Guidance Documents page of the EQB website contains fact sheets and forms specific to feedlots at: www.eqb.state.mn.us Or call 651-201-2477.

Minnesota Department of Natural Resources

Information on livestock water appropriation permits can be found on the Division of Waters page of the DNR website at: www.dnr.state.mn.us/waters/watermgmt_section/appropriations/permits.html Follow the link for “Water Appropriation Permit Application Forms.” To locate your DNR area hydrologist, follow the link for “Water-Related Permit Contact Information.” or call: 651-296-61577.

Or contact... The MDA’s Livestock Specialists

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In accordance with the Americans with Disabilities Act, an alternative form of communication is available upon request.

TDD: 1-800-627-3529.

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