



When Is Environmental Review Required for Feedlots?

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An Environmental Assessment Worksheet (EAW) is mandatory for the construction of a new feedlot with a capacity of 1,000 or more Animal Units (AU), or the expansion of an existing feedlot by 1,000 or more AU. The mandatory threshold drops to 500 AU in sensitive areas. An EAW provides an overview of a project's possible impact on land, air and water. It can help determine if a more extensive Environmental Impact Statement is required. The tables on Page 2 help determine the EAW requirements for expanding and new feedlots.

The environmental review process occurs before or simultaneously with the MPCA permitting process. However, no permits can be issued or final approvals granted until the environmental review process has been completed, which could include the preparation of an Environmental Impact Statement, if required by the Responsible Governmental Unit (RGU).

Phased Action

When a feedlot project is built in more than one stage (or "phase"), or in more than one location, it may be considered a "phased action", and all the phases or parts of the project will have to be considered together in determining whether the project is over the mandatory EAW threshold. For projects phased over a period of time, all the parts of the project built within a three year span, and all future phases of the project that are reasonably certain to be built, must be considered together in determining whether the EAW threshold is exceeded.

When looking back in time, only AU added in the three-year period between the date of the first permit application submitted for the proposed expansion and the date construction began at the existing site(s) can be included.

However, for the Phased Action criteria to be applicable, the sites must have an owner in common and affect the same geographic area, as determined by the unit of government with jurisdiction over the project.

Petitions

If a project is not required to go through the environmental review process and is also not exempt (see chart on back), citizens can file a petition with the Environmental Quality Board (EQB) and request the preparation of an EAW. Petitions must present a case, based on environmental factors, for why a project should have an EAW prepared. To do so, petitioners must document unusual features relating to the project's nature or location. Petitioners must do more than simply state their opposition to a project.

A valid petition must include the signatures of at least 25 people and meet several other criteria, which are listed on the Web at: <http://www.eqb.state.mn.us/EnvRevGuidanceDocuments.htm> in the document entitled, "A Citizen's Guide: the Petition Process."

After a petition is filed, the EQB determines if it is complete and meets all administrative requirements. If so, the EQB assigns the petition to the RGU with permitting authority for the proposed feedlot. Final issuance of permits for the project is placed on hold until the RGU determines if an EAW is needed. The RGU has 30 days to make this determination. However, if the exemption conditions described in footnote 4 below are met, no EAW can be ordered by the RGU.

Discretionary EAW

An RGU may require a "discretionary EAW" for non-exempt projects, if the RGU determines that "because of the nature or location of the project the project may have the potential for significant environmental effects."

EAW Requirements for Expansion of an Existing Feedlot

Total Number of Animal Units Added ¹	Non-sensitive areas	Sensitive areas ²
1,000 or more	Mandatory EAW ³	Mandatory EAW ³
500 to 999	Exempt if the conditions in footnote 4 are met ⁴	Mandatory EAW ³
100 to 499	Exempt if the conditions in footnote 4 are met ⁴	Not Exempt ⁵
50 to 99	Exempt from EAW ⁶	Not Exempt ⁵
Less than 50	Exempt from EAW ⁶	Exempt from EAW ⁶

EAW Requirements for Construction of a New Feedlot

Total Number of Animal Units ¹	Non-sensitive areas	Sensitive areas ²
1,000 or more	Mandatory EAW ³	Mandatory EAW ³
500 to 999	Exempt if the conditions in footnote 4 are met ⁴	Mandatory EAW ³
300 to 499	Exempt if the conditions in footnote 4 are met ⁴	Not Exempt ⁵
50 to 299	Exempt from EAW ⁶	Not Exempt ⁵
Less than 50	Exempt from EAW ⁶	Exempt from EAW ⁶

¹ **Animal Units:** EQB's rules use animal units as defined in the MPCA Chapter 7020 rules. Note that animal units for all parts or phases of a project must be considered together in determining whether the EAW threshold is exceeded or if the project meets the criteria for a phased action as described on the preceding page.

² **Sensitive areas:** Shorelands; delineated flood plains (along the Red River only includes 1,000 feet from bank); federal, state, or local wild and scenic river districts; within 1,000 feet of a karst feature (includes sinkholes, caves, disappearing springs, resurgent springs, karst windows, dry valleys, or blind valleys); and vulnerable parts of delineated drinking water supply management areas.

³ **Mandatory EAW:** An EAW is legally required.

⁴ **Exempt if certain conditions are met:** Feedlots outside sensitive areas are exempt from all environmental review provided the following conditions are met:

1. The new feedlot has a capacity less than 1,000 animal units, or the feedlot has a total capacity of less than 1,000 animal units after expansion; and
2. The application for the animal feedlot includes a written commitment by the proposer to design, construct and operate the facility in full compliance with MPCA feedlot rules; and
3. The county board holds a public meeting for citizen input at least ten business days before the MPCA or county issues a feedlot permit, unless another public meeting for citizen input has been held with regard to the feedlot to be permitted.

⁵ **Not Exempt:** The project may be subject to a petition, discretionary EAW, or may require a mandatory EAW if it meets the criteria for a Phased Action as described on the preceding page.

⁶ **Exempt:** No EAW can be required under any circumstances by any unit of government, unless the project meets the criteria for a Phased Action as described on the preceding page.