

State Disposal System permit for large feedlots

Water Quality/Feedlots

November 2011, updated May 2013

Minnesota Rule 7020 retains State Disposal System permit requirement for large feedlots

The 2011 Minnesota Legislature enacted a law change governing the issuance of National Pollutant Discharge Elimination System (NPDES) permits for large feedlots. Previously, the law required NPDES/SDS permits for feedlots with 1,000 animal units or more, or that meet the federal definition of a Large Concentrated Animal Feeding Operation (CAFO) (see chart on page 2).

The revised state law (MN Stat. 116.07, Subd. 7c) now defers to the federal rule (40 CFR), which requires an NPDES permit only for CAFOs that discharge. Non-permitted CAFOs will be held to a zero discharge standard. However, a facility still may retain its NPDES/SDS permit.



Livestock producers individually must assess whether or not they have a discharge. Clarification of what constitutes a discharge is pending from the U.S. Environmental Protection Agency.

However, Minnesota Rule 7020 (.0405, Subp. 1A) retains the requirement to obtain a State Disposal System permit for feedlots or manure storage areas capable of holding 1,000 animal units or more. An update of the rule is necessary to clarify which sites are required to have permit coverage.

General SDS permit

A State Disposal System (SDS) permit is under development. It will provide environmental protection similar to the current NPDES general permit, with several notable differences:

- No facility discharge under any condition (no 25-year, 24-hour storm exemption).
- No inclusion of NPDES construction stormwater provisions; this will require a separate permit.
- No public notice for manure management plan changes (just notify agency).
- Removes animal mortality requirements (see Board of Animal Health).

The SDS permit would not meet all federal NPDES requirements; it would not “certify” that the facility does not need to seek NPDES permit coverage. The SDS permit would offer no protection from citizen lawsuits under the Clean Water Act; should a discharge occur the facility would be legally responsible for not having an NPDES permit.

To qualify for the ag stormwater exemption, the facility must be following a manure management plan (MMP) that meets all requirements of the federal NPDES permit. The applicant would be responsible for ensuring that the facility MMP meets the federal requirements. A facility still may retain its NPDES/SDS permit and avoid these issues.

Issues and Answers

Does having an SDS permit automatically certify a CAFO as a “no potential to discharge”?

No; while an SDS is a zero discharge permit, in order to certify as a “no potential to discharge” CAFOs must complete additional requirements of 40 CFR 122.42(e), which may not be placed in the SDS permit because of Minnesota Statute 116.07, subd. 7(m). This provision prohibits permit requirements not required by law, or agreed to by the applicant. Such requirements include: animal mortality plans; soil conservation practices; annual manure

testing; daily, weekly and periodic inspections of facility water lines; land application equipment; stormwater diversion devices; and record-keeping of these inspections.

A facility wants to expand in the near term.

The only permits currently available to facilities with 1,000 AU or more, or that meets the definition of Large CAFO, are the Individual NPDES/SDS and General NPDES/SDS permits. The SDS general or individual permit would only contain state feedlot requirements, and not federal requirements.

An NPDES-permitted facility wants to terminate its existing permit.

Minn. Rule 7020.0405 requires any facility with 1,000 AU or more to have an NPDES permit or an SDS permit. If a facility wishes to terminate its existing NPDES permit, it would be required to apply for an SDS permit if 1,000 AU or more. The permittee would need to determine whether or not the facility discharges, and if so, be required to maintain NPDES permit coverage. At this time, if an existing facility has fewer than 1,000 AU, and does not discharge or propose to discharge, it may choose to terminate permit coverage.

Estimated timeline

Completion of the rule change is expected by late September or early October 2013, and the general SDS permit is expected to be available by late November or early December 2013. If hearings are required in either case, this will delay the completion dates.

Animal Number-Animal Unit Equivalents

Animal Type	Number of Animals Equivalent to 1,000 Animal Units (state)	Large CAFO Threshold Animal Numbers (federal)
Mature Dairy Cows	714	700
Beef Cattle	1,000	1,000
Swine >55 lb.	3,333	2,500
Broiler Chickens >5 lb.	200,000	125,000
Layer Chickens >5 lb.	200,000	82,000
Turkeys >5 lb.	55,555	55,000

For a complete list of Animal Unit factors, see [MN Rule 7020.0300](#), Subp. 5.

For more information

For more information about the feedlot program in Minnesota, please visit the Pollution Control Agency website at www.pca.state.mn.us and select Quick Links.

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