

Memorandum of Understanding

Disposal of Livestock Carcasses, Concrete and Reinforcing Bar Burial, and Debris from Damaged Farm Structures Resulting from a Disaster

Memorandum of Understanding between the Minnesota Pollution Control Agency (MPCA), Minnesota Department of Agriculture (MDA), and the Minnesota Board of Animal Health (BAH) collectively the "departments".

Background:

Disaster-created animal carcasses and debris at agricultural production sites can create human and animal health and public safety risks requiring more expedited management than otherwise applicable solid waste requirements may allow. In addition, the volume of waste which may be generated by a disaster at a farming operation is likely considerably greater than the amount normally expected to be generated by a household or single farm operation over an extended period of time.

Burial on-site of debris meeting the criteria described in this Memorandum of Understanding (MOU) is not expected to create substantial environmental or human health risk. The MOU will allow carcass and debris management in a timely and cost-effective manner while appropriately safeguarding human and animal health and alleviating any immediate public health or safety risks caused by a disaster. This MOU outlines how the three departments will work together to ensure proper disposal of animal carcasses and debris from farm structures resulting from a disaster in as environmentally-safe way as feasible.

Minn. Stat. § 35.815 assigns the jurisdiction and responsibility for the regulation and oversight of the disposal of livestock carcasses to the BAH. The burial of concrete or reinforcing bar is allowed pursuant to Minn. Stat. § 17.135.

- **Minn. Stat. § 35.815 LIVESTOCK MORTALITIES.**

- (a) Notwithstanding any other law, the executive director of the Board of Animal Health is responsible for the regulation and oversight of the disposal of livestock mortalities due to animal disease.

- (b) Notwithstanding any other law, the executive director of the Board of Animal Health is responsible for the regulation and oversight of livestock mortality disposal due to non-disease causes to protect animal health and the environment. The board shall, in cases where the disposal may adversely affect ground or surface water, seek the input of the Pollution Control Agency.

○ **Minn. Stat. § 17.135 FARM DISPOSAL OF SOLID WASTE.**

(a) A permit is not required from a state agency, except under sections 88.16, 88.17, and 88.22 for a person who owns or operates land used for farming that buries, or burns and buries:

(1) solid waste generated from the person's household or as part of the person's farming operation; or

(2) concrete or reinforcing bar from a building or structure located on the land used for farming.

Items in clauses (1) and (2) must be buried in a nuisance-free, pollution-free, and aesthetic manner on the land used for farming. The exception in clause (1) does not apply if regularly scheduled pickup of solid waste is reasonably available at the person's farm, as determined by resolution of the county board of the county where the person's farm is located.

(b) The exemption in paragraph (a), clause (1), does not apply to burning tires or plastics, except plastic baling twine, or to burning or burial of the following materials: (1) household hazardous waste as defined in section 115A.96, subdivision 1; (2) appliances, including but not limited to, major appliances as defined in section 115A.03, subdivision 17a; (3) household batteries; (4) used motor oil; and (5) lead acid batteries from motor vehicles.

(c) Within 90 days after completion of the burial, an owner of land used for farming who buries material under the authority of paragraph (a), clause (2), shall record, with the county recorder or registrar of titles of the county in which the land is located, an affidavit containing a legal description of the property and a map drawn from available information showing the boundary of the property and the location of concrete or reinforcing bar buried on the property. The county recorder or registrar of titles must record an affidavit presented under this paragraph in a manner that ensures its disclosure in the ordinary course of a title search of the subject property.

Shared Assistance and Oversight Coordination:

- A. While language within the statute (Minn. Stat. § 35.815) gives the oversight of carcass disposal to the BAH, the MPCA will partner with the BAH when requested to assist with complaint response and follow-up related to carcass disposal. In addition, the MPCA will provide assistance to the BAH as requested in carcass disposal planning and operations.
- B. Oversight of concrete and reinforcing bar disposal (from farms) is the responsibility of the MPCA. The MPCA will respond to complaints with the MDA as appropriate. The MDA will provide a form for the recording of the burial of concrete and reinforcing bar by the land owner to be filed with the county recorder or registrar of titles of the county in which the land is located. The MPCA will assist the MDA as requested.
- C. Oversight of disposal of all other debris from farms is the responsibility of the MPCA. The MPCA is responsible for complaint response and follow-up related to improper disposal.

Farm Incident Response:

A. Carcass Disposal by Burial On-site

1. The departments (BAH, MDA, MPCA) agree that the preferred options for carcass disposal are composting and rendering, or standard disposal off-site at a permitted landfill or solid waste management facility. These options should be considered first for carcass disposal. If not viable due to: the risk of spreading animal disease, human health and/or safety issues, environmental constraints, limited site size, or property ownership problems, other alternatives will be considered. Cost to the producer will be considered only if the cost of rendering, composting, or standard disposal is disproportionately more expensive than the cost of burial or burning.
2. The departments agree that unless unfeasible due to health, safety, or environmental considerations, every reasonable effort must be made to separate livestock carcasses from all other waste prior to burial.
3. The departments agree that the separation distances and conditions below will be considered sufficient to protect surface and ground water from carcass burial:
 - 5 feet above the seasonal high groundwater level measured from the excavation bottom
 - 50 feet from any property line boundary
 - 50 feet from any tile drainage line
 - 150 feet from any water supply well
 - 300 feet from any stream or river
 - 300 feet from any wetland
 - 1,000 feet from any pond or lake

The departments also agree that carcass burial sites should not be located within any property containing karst features, including sinkholes, disappearing streams, or caves.

4. The departments agree that after burial, the site should be covered by at least three feet of soil, with at least the top foot capable of sustaining vegetative growth.
5. The departments agree that in cases where these separation distances or cover are not feasible, BAH will consult with MPCA staff who will be authorized to suggest alternate burial or setback conditions that would be reasonably protective of surface and ground water. BAH retains ultimate authority for approving conditions of disposal.
6. The departments agree that the facility owner should ensure that the site is properly maintained to avoid issues related to settlement and erosion and take immediate steps to correct issues that have been identified.
7. The departments understand that the facility owner remains responsible for responding to any pollution resulting from disposal of carcasses or other debris overseen by another department's staff.

B. Burial of Concrete and Reinforcing Bar (For persons who own or operate land used for farming only)

The statute makes it clear that concrete or reinforcing bar from a building or structure located on the land used for farming can and must be buried in a nuisance-free, pollution-free, and aesthetic manner on the land used for farming. The departments shall be flexible with their interpretation of "nuisance-free, pollution-free, and aesthetic manner".

The statute goes on to say that within 90 days after completion of the burial, an owner of land used for farming who buries concrete or reinforcing bar from a building or structure shall record, with the county recorder or registrar of titles of the county in which the land is located, an affidavit containing a legal description of the property and a map drawn from available information showing the boundary of the property and the location of concrete or reinforcing bar buried on the property. The county recorder or registrar of titles must record an affidavit presented under this paragraph in a manner that ensures its disclosure in the ordinary course of a title search of the subject property. In cases where the MPCA discovers the burial of concrete and/or reinforcing bar the MPCA will ensure that an appropriate affidavit is filed.

C. Burial On-site of Debris From Damaged Farm Structures

For the purposes of this MOU, debris from damaged farm structures includes portions of the structure, ash resulting from the fire disaster, and the appurtenances of the structure unless excluded below.

The following apply to debris from damaged farm structures:

1. The departments agree that unless unfeasible due to health, safety, or environmental considerations, all hazardous and prohibited materials specified by Minn. R. 7035.0805, Subp. 5., must be separated and removed from the debris and appropriately managed. If such materials cannot be separated and removed, then debris containing the hazardous and prohibitive materials must be segregated from all other debris and must be managed at a facility that is permitted to accept the contaminated waste. The remaining debris may be managed as demolition debris under normal solid waste requirements or buried on-site per the conditions in this MOU.
2. The departments agree that unless unfeasible due to health, safety, or environmental considerations, an inspection of the debris for Regulated Asbestos-Containing Material (RACM) by an asbestos inspector certified by the Minnesota Department of Health (MDH) must be performed and all RACM removed and appropriately managed by an asbestos abatement contractor licensed by the MDH. If the inspection reveals no RACM in the debris, or if RACM is identified and appropriately removed and managed, then the remaining debris may be managed as demolition debris under normal solid waste requirements or buried on-site per the conditions in this MOU. If the required inspection and/or removal cannot be performed, then the following apply:

- If the facility owner has no knowledge of possible RACM in the structure and no materials suspected as RACM are observed by the asbestos inspector in the visible debris, then all the debris may be managed as demolition debris under normal solid waste requirements or buried on-site per conditions in this MOU.
 - If any suspected RACM is observed by the asbestos inspector in the visible debris, or is suspected as present based on the facility owner's knowledge of the structure, then the suspect debris must be tested or assumed to be RACM and appropriately removed and managed. The remaining debris may then be managed as demolition debris under normal solid waste requirements or buried on-site per conditions of this MOU. If the suspect debris cannot be separated from other debris, then all the debris must be treated as RACM and removed and managed appropriately.
3. The departments agree that unless unfeasible due to health, safety, or environmental considerations, every reasonable effort must be made to separate livestock carcasses, feed, bedding, and any other putrescible waste prior to burial on-site.
 4. The departments agree that debris burial sites must not be located within:
 - any property containing karst features, including sinkholes, disappearing streams, or caves
 - a wetland
 - a 100-year floodplain
 - 5 feet of the seasonal high groundwater level measured from the excavation bottom
 - 50 feet from any property line boundary
 - 300 feet from any stream or river
 - 1,000 feet from any pond or lake
 5. The departments agree that after burial, the site should be covered by at least two feet of soil, with at least the top foot capable of sustaining vegetative growth.
 6. The departments agree that in cases where these separation distances or cover are not feasible, MPCA staff will help determine alternate burial or setback conditions that would be reasonably protective of surface and ground water.
 7. The departments agree that the facility owner should ensure that the site is properly maintained to avoid issues related to settlement and erosion and take immediate steps to correct issues that have been identified.
 8. The departments understand that the facility owner remains responsible for responding to any pollution resulting from disposal of debris overseen by another department's staff.
 9. The departments agree that a deed notification form must be filled out and filed with the County where the facility is located by the facility owner within 30 days after the site has been closed (see attachment titled "Land Disposal Site Closure Record").

10. The departments agree that the facility owner shall submit a completed site closure form for the site to the MPCA within 30 days after the site has been closed (see attachment titled "Site Closure Form for Permit-By-Rule (PBR) Demolition Debris Disposal Facility).

Department Coordination:

Staff of each of the departments will cooperate and share information and coordinate on complaints and inquiries related to any of above related incidences. This includes coordinating on site inspections, technical assistance, factsheets, and follow-up activities.

A. Contacts

The following will serve as the designated contact for their respective departments with regards to this MOU:

BAH – Beth Thompson (651)201-6844;

MDA – Mike Starkey (651)201-6286;

MPCA – Heidi Kroening (218)302-6620

Calls that come into the State Duty Officer (both during normal business hours and after normal business hours), will be handled by the respective department's on-call/Emergency Response staff who will make the appropriate contacts with the departments' designated contacts listed above. Calls may include external party calls and calls initiated by department staff.

IN WITNESS WHEREOF, the parties to this agreement have executed this agreement
intending to be bound by it.

Approved by:



Mr. Paul Aasen
Commissioner
Minnesota Pollution Control Agency

Date: 3/12/12



Mr. Dave Frederickson
Commissioner
Minnesota Department of Agriculture

Date: 3/20/12



Dr. Bill Hartmann
Executive Director and State Veterinarian
Minnesota Board of Animal Health

Date: 3-27-12

