



Minnesota
Pollution
Control
Agency

NPDES/SDS Feedlot Permits: Frequently Asked Questions

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Who needs to apply for a NPDES/SDS permit?

A feedlot owner is required to apply for coverage under a National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) permit when proposing a new facility or expanding an existing facility, or to operate an existing feedlot that will:

- have a capacity of 1,000 animal units (AU) or more; or
- meet or exceed the Environmental Protection Agency (EPA) Large Concentrated Animal Feeding Operation (CAFO) threshold (see table on Page 2)

What NPDES/SDS permits are available for feedlots?

- **2006 General NPDES/SDS Feedlot Permit** – This Permit was issued on June 1, 2006, and will expire on May 31, 2011. It is currently providing coverage to over 1,200 Minnesota livestock and poultry operations (feedlots). Owners of feedlots that meet the general permit eligibility requirements may apply for coverage under this permit for the construction, operation, and maintenance of their feedlot.
- **2011 General NPDES/SDS Feedlot Permit** – This Permit has been approved by the MPCA Citizens' Board and will be effective on February 1, 2011. This Permit will replace the 2006 General Permit when it becomes effective. The 2011 General Permit expires on January 31, 2016.

- **Individual NPDES/SDS Feedlot Permit** – A feedlot that is required to apply for an NPDES/SDS permit and does not meet the eligibility requirements of the general NPDES/SDS permit is required to apply for an individual permit.

How does a general NPDES/SDS permit differ from an individual NPDES/SDS permit?

General NPDES/SDS permit

A general NPDES/SDS permit is a single permit document that provides coverage to multiple facilities. Feedlot owners are eligible for the General NPDES/SDS Feedlot Permit when they meet the eligibility criteria established in Part I of the general permit.

Individual NPDES/SDS permit

An individual NPDES/SDS permit is used for facilities that do need additional permit conditions to correct pollution hazards or past violations, or need other special permit conditions, to construct or operate technologies that are not covered under the general NPDES/SDS permit. Facilities that have been defined as a Medium CAFO or designated a Small CAFO will need to apply for coverage under an individual NPDES/SDS permit.

When do I need to apply for a NPDES/SDS permit?

Application deadlines for applying for a NPDES/SDS permit depend on which of the following situations apply to the operation.

MPCA Offices:

Rochester:

507/285-7343

Mankato:

507/389-5977

Marshall:

507/537-7146

Willmar:

320/214-3786

Detroit Lakes:

218/847-1519

Brainerd:

218/828-2492

Duluth:

218/723-4660

Metro:

651/296-6300

Toll-Free Number:

800/657-3864

Medium and Small CAFOs

Facilities defined by 40 CFR 122 as Medium or Small CAFOs will be required to apply for coverage under an NPDES/SDS permit. Owners of these facilities will be informed by the Minnesota Pollution Control Agency (MPCA) if they need to apply for a NPDES/SDS permit.

Sites with existing 2006 General NPDES/SDS Permits

Feedlot owners that want to continue to have their NPDES/SDS permit coverage under a general permit after February 1, 2011, need to apply for coverage under the 2011 General Permit. Applications for coverage under the 2011 General Permit are to be submitted to the MPCA by August 1, 2010.

Individual NPDES/SDS permits

Those feedlots with existing individual NPDES/SDS permits must submit an application for reissuance 180 days or more prior to the permit's expiration date.

Construction or expansion to NPDES/SDS threshold

Prior to February 1, 2011 - Any construction that will begin prior to the February 1, 2011, effective date of the 2011 General Permit and will exceed the NPDES/SDS permit thresholds provided above will require the submittal of an application for the 2006 General Permit prior to the start of construction. This Permit will provide coverage for the feedlot until the effective date of the 2011 General Permit.

To continue NPDES/SDS permit coverage for the construction, operation, and maintenance of the feedlot, the owner is required to submit an application for the 2011 General Permit either by August 1, 2010, or with the application for the 2006 General Permit. The permit application fee will be required to be submitted with each permit application.

After February 1, 2011 - Owners/operators that are constructing a new feedlot or expanding an existing feedlot that will meet or exceed the threshold at which an NPDES/SDS permit is required, are to apply for and receive coverage under an NPDES/SDS permit, prior to beginning construction activities. This will provide permit coverage until January 31, 2016, when the 2011 General Permit expires.

Table 1: Federal Large CAFO thresholds

Dairy	700 mature dairy cattle
Veal Calves	1,000 calves
Cattle (other than dairy cows or veal calves)	1,000 heifers, steers, bulls, cow/calf pairs, etc.
Swine	2,500 swine (over 55 lb.) 10,000 swine (less than 55 lb.)
Horses	500 horses
Turkeys	55,000 turkeys
Chickens	30,000 laying hens or broilers with a liquid manure system 125,000 chickens (other than layers) with a non-liquid manure system

When are several facilities considered to be a single animal feedlot operation?

The MPCA uses the following federal statute to determine when individual facility sites can be considered as a single animal feedlot operation.

“Two or more animal feeding operations (AFOs) under common ownership are considered for the purposes of these regulations, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for disposal of wastes.” (Code of Federal Regulations 122.23 (ii) (2)).

The MPCA interprets “owner” in the Code of Federal Regulations (CFR) to mean “all persons having possession, control, or title to an animal feedlot or manure storage area.” (Minn. R. 7020.0300, subp. 17.) The MPCA will interpret the other provisions of the above CFR on a site-by-site basis using the following guidance:

- Two or more AFOs that are under common ownership and adjoin each other may be considered as one facility. “Adjoin each other”, means that the AFOs share a common border with another AFO. AFOs can be considered to adjoin each other if they are separated only by a roadway, fence line, or similar boundary.
- Two or more AFOs that are under common ownership and use the same acreage for land application may be considered as one operation.

- Two or more AFOs that are under common ownership and share common manure handling systems or mix manure from multiple AFOs will be considered as one facility except:
 - when manure is transferred to a third party who collects from many separately-owned AFOs and manages the manure as a separate entity
 - where the driver is the same but separate equipment is used
 - where the same piece of equipment (i.e., manure spreader, honey wagon, tanker) is used to collect manure at separate AFOs at separate events and the manure from multiple AFOs is not combined in the piece of equipment

Where do I get an application packet?

Applications for coverage under the 2006 General Permit or for an individual permit are available upon request from any of the MPCA offices listed on the first page of this fact sheet or on the MPCA's feedlot Web site.

Application packets for coverage under the 2011 General Permit will be mailed to the owner/operator of all sites with coverage under the 2006 General Permit in early 2010.

What management plans do I need to include in a permit application and is there guidance on preparing these plans?

Five plans must be included with all NPDES/SDS permit applications.

1. manure management plan (MMP)
2. air emissions plan
3. emergency response plan
4. animal mortality plan
5. operation and maintenance plan

Guidance to complete these plans is included in the application packet. The following additional plans may be required at sites proposing new construction.

1. **A stormwater pollution prevention plan (SWPPP).** A SWPPP is required to be developed if construction will disturb **one** or more acres of land surface area, or if there will be one or more acres of impermeable surface remaining after construction is complete. The SWPPP does not have to be submitted to the

MPCA with the application packet unless **three** or more acres of land will be disturbed. However, for sites that disturb one to three acres, the SWPPP must be available at the construction site and made available upon request by the MPCA.

The SWPPP requirements have been incorporated into the Feedlot General NPDES/SDS Permit. Construction activities at a feedlot with coverage under a Feedlot NPDES/SDS Permit will also have coverage under the Stormwater NPDES/SDS Permit, which save the need for an owner/operator to complete the application for a stormwater permit and the associated permit fee. Guidance for stormwater plan requirements is available at the MPCA feedlot Web site.

2. **Design and specification plans.** These plans are required for new construction of manure storage areas and must meet the technical requirements found in Minn. R. ch. 7020.

Why did the General NPDES/SDS Feedlot Permit need to be revised?

There are two reasons why the 2011 General NPDES/SDS Feedlot Permit needed to be developed. The first is to replace the 2006 General Permit when it expires in 2011, and the other is to incorporate recent changes in federal regulations. The EPA revised its regulations governing CAFOs (40 CFR § 122 and 412) on November 20, 2008. Changes to these regulations are mostly in regard to the MMP requirements, including development of a five year MMP and notification of the MPCA and public when changes are made to the MMP.

What are the public notice requirements for the NPDES/SDS permit?

A public notice is done to provide the public with a meaningful opportunity to provide comments to the MPCA, as provided under Minn. R. ch. 7001, regarding a specific feedlot.

General permits

Once the MPCA has determined that the application for coverage under a general NPDES/SDS permit, including the attached plans, meets the applicable rules and regulations, information pertaining to the name, location, animal type and capacity, and how to obtain additional information for that facility will be placed on the MPCA Web site for a minimum of 30 days.

Individual permits

Issuance of an individual NPDES/SDS permit requires a 30-day public noticing of the permit in the state register and local newspaper. The public noticing can only occur after the conditions have been drafted into a permit.

How are NPDES/SDS permit application requirements coordinated with Environmental Quality Board's Environmental Assessment Worksheet (EAW) requirements?

Owners proposing to construct a new site with 1,000 or more AU, or expanding an existing site with 1,000 or more AU, are required to complete an EAW when applying for coverage under an NPDES/SDS permit.

When an EAW is required, the practice of the MPCA is to review the EAW and permit application at the same time. The reason for this practice is that it allows for insertion of conditions into permit plans that, in most cases, will address the concerns raised during the EAW process.

A general NPDES/SDS permit can often be issued when an EAW is required. If conditions are agreed to that are more stringent than what is required by Minn. R. ch. 7020, and are not a component of the standard plans submitted and made enforceable by the general NPDES/SDS permit, an individual NPDES/SDS permit will be necessary.

Issuance of an individual NPDES/SDS permit requires a public noticing of the permit. The public noticing can only occur after the conditions have been drafted into a permit. The MPCA must, according to Minn. Stat. §116.07, public notice individual NPDES/SDS permits and EAWs concurrently whenever possible. For this reason, the MPCA works with producers early in the process to determine if an individual NPDES/SDS permit may be needed and what EAW design features or siting attributes might impact this decision.

How about the fees?

Application fee

Effective July 1, 2009, the application fee for an NPDES/SDS permit was increased. An application fee of \$620.00 must be submitted to the MPCA with the completed application packet for a general NPDES/SDS permit or for the reissuance of an individual NPDES/SDS permit that does not involve construction.

For first-time issuance of an individual NPDES/SDS permit or the issuance of an individual permit that includes construction activities, the fee will be \$1,860.00.

Annual fee

An annual fee is billed the next calendar year after a facility is granted coverage. Typically, the annual bills are sent in January of each year. The fees are \$345.00 annually for a general NPDES/SDS permit and \$1,230.00 annually for an individual NPDES/SDS permit.

All checks for fee payment should be made out to the "Minnesota Pollution Control Agency."

What are the MPCA procedures for processing an NPDES/SDS permit application?

The MPCA reviews all plans submitted as part of the application packet to determine if they meet state and federal statutes, laws, rules and regulations, and adequately protect the environment before granting coverage under an NPDES/SDS permit. The MPCA will inspect facilities to ensure compliance with all permit requirements, applicable rules and regulations, and the required plans. If compliance issues are discovered, the MPCA will require the facility to make corrections within a reasonable amount of time. The regulatory tools used to bring the facility into compliance will depend on the severity of the problem, the cooperation of the producer, and other factors.

More information

For more information about the MPCA Feedlot Program requirements, log onto the MPCA feedlot Web site at: <http://www.pca.state.mn.us/hot/feedlots.html>, or call your area office listed on the first page of this fact sheet and ask for the feedlot staff. For more information pertaining to EPA's regulations for CAFOs, log onto the EPA Web site at: <http://cfpub.epa.gov/npdes/afo/cafofinalrule.cfm>.