

When is environmental review required for feedlots?

Water quality /feedlots

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 (see chart below). 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 (EIS) is required. To determine the EAW thresholds, use the tables on page two or the Environmental Quality Board's (EQB) rules which are available at: <https://www.revisor.mn.gov/rules/4410/>.

The environmental review process occurs before or simultaneously with the permitting process. No permits can be issued, or final approvals granted until the environmental review process has been completed, which could include the preparation of an EIS, if required by the Responsible Government Unit (RGU).

The RGU is responsible for preparation and review of environmental documents. For feedlot projects the Minnesota Pollution Control Agency (MPCA) is the RGU unless a delegated County will issue the feedlot permit, in which case the County is the 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 the phased action criteria to be applicable, the sites must have a common proposer and affect the same geographic area, as determined by the unit of government with jurisdiction over the project.

For a proposed expansion where previous construction activity has occurred, the cumulative AU total of the proposed expansion and the existing components of the feedlot must be considered when determining if an EAW threshold is met or exceeded. This applies to all construction activities where the construction had started within three years of the permit application date for the proposed expansion and an EAW was not completed for the previous construction activity. Likewise, all future phases of the project that are reasonably certain to be built must also be considered together in determining whether the EAW threshold is exceeded.

Petitions

If a project is not required to go through the environmental review process and is also not exempt (see chart below), citizens can file a petition with the EQB and request the preparation of an EAW. A petition must contain the signatures of at least 100 people and meet the criteria found in the EQB rules. These criteria require the petitioner to present a case based on environmental factors, for why a project should have an EAW prepared.

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. Final issuance of permits for the project is placed on hold until the RGU determines if an EAW is needed. The RGU has 15 working days to make a decision, unless it is to be made by a board in which case the RGU is given an additional 15 days. 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 AU 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 not 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 AU 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 not 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

¹Animal units: EQBs rules use animal units as defined in the rule Minn. Ch. 7020. 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.

²Sensitive 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.

³Mandatory EAW: an EAW is legally required.

⁴Exempt 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.
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.
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.

⁵Not 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.

⁶Exempt: 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.