August 30, 2024

Minnesota Pollution Control Agency
c/o George Schwint
Re: NPDES and SDS feedlot permit revision

https://mpca.commentinput.com/?id=EdujCsA3t

The Institute for Agriculture and Trade Policy (IATP) welcomes the opportunity to comment on the MPCA's proposed changes to the National Pollution Discharge Elimination System (NPDES) and the State Disposal System (SDS) feedlot permits to protect the state's waters from nitrate pollution. IATP is a 36-year-old non-profit organization based in Minnesota that works for fair and sustainable food, farm and trade systems.

We are encouraged to see MPCA update the two feedlot permits that have a direct impact on water quality throughout the state, in particular on vulnerable, impaired groundwater areas. Given the serious challenges related to water pollution confronting the state, including from 1,000 plus animal unit feedlots, now is an appropriate time to strengthen these rules. We support the MPCA in using its legal authority to make these updates and protect the state's water for all citizens.

We support the MPCA's proposed changes but also believe that more could be done to better protect the state's water, particularly as the climate risk to pollution sources is expected to expand. Here are few suggested areas of improvement:

1) We support the requirements that all October and November applications in vulnerable groundwater areas have either a growing crop, cover crop or perennial crop within 14 days of application. We agree that visual inspection at time of application and afterwards is necessary. Strong record-keeping of applications, including water sampling and ensuring that manure buyers are following permit rules, is reasonably required to ensure that permits are being followed. We believe these changes could be strengthened by requiring permit holders to share this information with the agency and be publicly available to ensure permits are being followed.

2) We support requiring Best Management Practices (BMPs) on timing of application, during fall, winter and summer, and the need to have a cover crop or perennial crop on applicated land for impaired groundwater areas. However, we think the MPCA should go further to expand the additional requirements outlined for October, November and winter applications of manure in vulnerable groundwater areas to all parts of the state where manure is applied. A quick review of the map of vulnerable groundwater areas makes clear that there are challenges for clean water all over the state. Many waterways travel through multiple communities. One set of rules

throughout the state would have a larger impact for clean water and reduce disputes about applying these requirements. As part of this recommendation, we support phasing out winter application in impaired groundwater areas. We also support requirements for preplant spring testing to determine how much nitrogen is needed.

3) We strongly support reforms to require the permit holder to help with clean up of manure discharge events through requiring water sampling. In addition to water sampling and testing after a discharge event, this permit should require more proactive water samplings to ensure long-term compliance with the permit and to help ensure accountability. These permits should require regular water sampling and testing around the permit holding site and where liquid manure from the site is spread so that the agency and the public can know that long-term damage and contamination is not occurring. These permits should also require that new constructions of manure basins and new lands used for spreading undergo water sampling and testing before construction begins or manure is spread to establish a baseline nutrient load for future testing to be measured against.

4) We support requirements for manure application into the soil if on a 100-year flood plain. We urge MPCA to ensure that those flood plain assessments are up to date. Climate change is rapidly changing where 100-year flood risks are located. We understand that FEMA is currently updating its flood plain maps. We urge MPCA to ensure the floodplain maps it uses are up to date and continually updated as needed. A recent analysis found that two-thirds of FEMA's floodplain maps had not been updated in the required five years and many are considered inaccurate.[1]

5) Finally, we urge MPCA to consider the unique manure properties of digestate, a product of manure digesters to produce biogas. There is increasing interest in digester development, particularly for large-scale dairies, but also for hogs and beef feedlots. Digestate is the waste left over after the methane gas has been captured. It typically has higher levels of ammonia nitrogen than typical manure applications.[2] These higher nitrogen levels could lead to overapplication, making it extra important for farmers to (1) test the digestate before application and (2) take appropriate account for all sources of nitrogen applied to the field. We urge the MPCA to consider the particular risks that digestate application pose to water quality.

We appreciate the opportunity to submit these comments to the MPCA and look forward to the updating of these permits as an important step toward protecting the state's water.

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[1] https://www.nrdc.org/bio/joel-scata/femas-outdated-and-backward-looking-flood-maps#:~:text=FEMA%20is%20required%20to%20update,flood%20risks%20are%20not%20static.

[2] https://www.sciencedirect.com/science/article/abs/pii/S0956053X21006887#:~:text=Digestate%20is%20a%20nutrient%2Drich,blooms%2C%20hypoxia%2C%20and%20eutrophication.