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TO: MPCA Feedlot Lateral Team
Delegated County Feedlot Pollution Control
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SUBJECT: Policy Clarification: 30-Day Notice for Construction or Expansion**Policy Statement**

Minn. Rule 7020.2000, subpart 5, Item A requires owners of feedlots who are proposing construction or expansion and will have fewer than 300 animal units after any expansion, to notify MPCA or the delegated county feedlot officer (CFO). Minn. Rule 7020.200, subpart 5, Item B requires owners of feedlots who are proposing construction or expansion of any size to notify all local units of government. Both notices are required at least 30 days prior to commencing construction. This policy statement provides clarification of how the 30-day notice in these rule parts applies to certain feedlots. The full 30-day waiting period may be waived, provided the facility meets and complies with the following:

1. The proposed construction or expansion is at a facility that will have less than 300 animal units.
2. The owner obtains written or verbal approval from the MPCA or delegated county to commence construction sooner than 30 days from the date of notification. Written approval may be in the form of an interim permit issued to the owner.
3. The MPCA or delegated county may request that the owner submit plans and specifications for review prior to approval.
4. The owner obtains written or verbal approval from the local government unit to commence construction sooner than 30 days from the date of notification.
5. This does not preclude local units of government from prohibiting a new feedlot in shoreland.

Background and Justification

The revised feedlot rules became effective on October 23, 2000. Since that date, the MPCA, Minnesota Extension Service, many delegated counties have been providing a substantial amount of information, training and outreach activities for those involved in or regulated by the rules. One of the most common concerns we have heard is how the 30-day notice periods is unreasonable for many smaller horse, cattle or other hobby farms proposing to construct or expand. This concern was not previously raised during the rule hearings or at any time prior to October 23, 2000. The policy described in this memorandum is intended to clarify the MPCA's interpretation of this provision.

The main goals and focus of the 30-day notice requirements in part 7020.2000, as described throughout the rule making process and in the MPCA Statement of Need and Reasonableness (SONAR), were:

1. to allow the MPCA, CFO, and local units of government an opportunity to review the proposed project before construction started and it was too late to correct or improve the proposal; and
2. to allow interested citizens an opportunity to check-in with the state, county and/or local government and inquire about projects in their area that may affect them.

The notice provisions as a whole were somewhat the result of a compromise reached by the Feedlot and Manure Management Advisory Committee (FMMAC) during their involvement in the rulemaking prior to MPCA formally proposing the revised rules. More specifically, the 30-day notice was a compromise agreed upon by FMMAC to manage public noticing and permitting. At the time, some FMMAC members were advocating a system in which all feedlots would need some sort of permit, while MPCA proposed to eliminate construction permits for facilities less than 300 animal units. Concerns were raised as to whether this would provide adequate oversight for preventing pollution hazards. The compromise reached was that notice would be provided to local governments and a suitable period of time allowed to elapse for the government to review the proposal. Counties have had a problem in the past getting notified and they had facilities being constructed without local permits. Additionally, this allows a quick review by state and county to see that they are not located in prohibited areas or otherwise not meeting technical requirements.

By complying with the items listed in the policy statement above, the original intent of the revised rules under this part are maintained. The MPCA or delegated county and all local units of government retain the authority to review each individual project on a case-by-case basis to determine if the facility can reasonably be expected to comply with the location restrictions and operational requirements. Since the owner must obtain approval from the government authorities, the authorities should be able to approve a project if their review can be completed in less than 30-days. In addition, if the government authorities identify potential problems during the review process, the owner may be requested to delay construction past the original 30 days and until those issues are resolved. Finally, citizen's ability to check-in with government authorities is maintained since owners are required to notify state or county and all local government authorities.