

Office Memorandum

DATE : April 2, 2004

TO : Minnesota Pollution Control Agency Feedlot Staff
Delegated County Feedlot Officers

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SUBJECT : Policy 2004-02 – Expansions for Facilities under Open Lot Agreements

Policy 2004-02 addresses how the Minnesota Pollution Control Agency (MPCA) staff and delegated counties will address expansions for facilities that have signed an Open Lot Agreement.

Background

The Open Lot Agreement (OLA) is a tool established under Minn. R. 7020 to allow producers time to appropriately plan and resolve pollution problems at facilities with less than 300 animal units and that existed before October 23, 2000. The OLA was structured such that minimal administrative burden was placed on the producer or the regulatory bodies (delegated counties and MPCA). A producer may choose the tool; determine the option best suited to the site operations; and seek assistance, if needed, from a consultant or an agency with whom the producer is comfortable. Additionally, the producer is to operate and manage the facilities at all times to minimize discharges.

During implementation, producers and regulatory staff are attempting to use the tool in a manner consistent with Minn. R. part 7020.2003. Of particular concern is the following question: **“Are expansions allowed under the terms and conditions of the OLA?”**

Guideline Statements

- I. Feedlots enrolled in the OLA are allowed to expand animal numbers provided they are in compliance with the terms and conditions of the OLA, which includes the schedule milestones of October 2005 and 2010 and requirements for ongoing management and operation.
- II. Feedlots enrolled in the OLA are allowed to construct expansion facilities, as long as they do not increase the discharge from the feedlot. Examples include total confinement barns and manure storage areas. These facilities can be constructed to allow for an expansion in animal unit capacity of the feedlot and/or manure storage area if the total animal unit capacity of the feedlot or manure storage area **does not exceed 300 animal units**. Situations where the expansion would cause the total capacity of the feedlot to exceed 300 animal units will need to be addressed through an Interim Permit.

Statements Supporting the Guidelines

I. Statement of Need and Reasonableness (SONAR)

- A. *The OLA is designed to allow small existing facilities to correct open lot runoff problems over an extended period of time.* According to the SONAR, many of the feedlots eligible for the OLA have avoided compliance because of associated costs and the two-year timeline the agency required before the feedlot rule was revised. The OLA has provided a reasonable and achievable schedule of compliance.
- B. *The SONAR specifically addresses an increase in animal numbers.* The SONAR makes the case that the terms and conditions of the OLA must be met at the time an “owner chooses to make a change at the feedlot which increases the number of animal units housed at the feedlot.”

II. Expansions Allowed under the OLA

- A. *Construction of facilities, such as total confinement barns and manure storage areas are allowed if the facilities comply with the terms and conditions of the OLA.* If feedlot owners are allowed to expand animal numbers without first complying with the terms and conditions of the OLA, the incentive to comply with the terms and conditions is eliminated.
- B. *Allowing feedlots to construct needed facilities to house additional animal units or store the manure from additional animal units is reasonable.* Construction costs can be greatly reduced when construction to eliminate a problem and to expand a feedlot are done at the same time.

III. Expansions not Allowed under the OLA

- A. *Expansions beyond 300 animal units terminate the OLA.* An Interim Permit must be issued to authorize the expansion and set forth a schedule to eliminate any existing pollution problems, including open lot runoff.
- B. *Expansions that increase or exacerbate existing open lot discharge at the facility are not allowed under the OLA.* An Interim Permit must be issued to authorize the expansion and set forth a schedule to eliminate any existing pollution problems, including open lot runoff.

BEST MANAGEMENT PRACTICES for Anyone Enrolling in the Open Lot Agreement

In accordance with Minn. R. 7020.2003, Subp. 5. A. "Operate and manage the animal feedlot to minimize discharge from eligible open lots at all times."

Below are suggested **Best Management Practices (BMPs)**, but is likely not a complete list:

BMPs for Immediate Implementation:

1. Frequent and regular manure removal from open lots.
2. Relocate any feedstuff stockpiles or decaying feed stocks that may produce leachate or contaminated runoff away from receiving waters.
3. Free-choice and other feeders adjusted properly to avoid feed spillage and spoilage.
4. Do not overfill feed bunks, troughs, or other feeding devices where excessive feed waste may accumulate.
5. Remove all non-palatable and spoiled feed from feeding devices and land apply, as one would manure.
6. Watering devices properly adjusted to prevent overflows and excessive leakage.
7. Do not overstock the feedlot.
8. Relocate all manure stockpiles away from any waters of the state and consider where manure packs and manure mounding occur within an open lot to avoid direct runoff.
9. Immediately remove accumulated manure from grass filter strips and buffered areas, and maintain buffers and filters as needed.
10. Immediately sleeve open tile intakes, when applicable, with solid PVC pipe one (1) foot below ground level and two (2) foot above or as needed.
11. Whenever possible, reduce the open lot area to no more than what is needed to maintain good animal health and provide adequate feeding and watering space to prevent animal from becoming to pugnacious.

Other recommended BMPs to meet longer term operational needs are available.

LR:dac