
Discussion

CHAPTER 3

In Chapter 2, we examined the efforts of MPCA and delegated counties and identified a number of problems with existing regulatory activities. In this chapter, we make recommendations to address those problems and consider how the Legislature can help state and county officials improve the regulatory system. In particular, we address the following questions:

- **What improvements are needed in the regulatory efforts of MPCA and delegated counties?**
- **What options should state policy makers consider in helping state and county regulators improve current regulatory practices?**

RECOMMENDATIONS

There are five general areas in which feedlot regulation needs improvement. They are: 1) permitting, 2) environmental review, 3) complaint handling and enforcement, 4) ongoing oversight of feedlots, and 5) MPCA oversight of delegated counties. We present recommendations below on each of these subjects. We recognize that regulators may not be able to implement all of these recommendations without additional resources. The need for additional resources is discussed in the next section along with other policy alternatives.

Permitting

MPCA has a group of engineers who are responsible for approving feedlot permits issued by the agency. These engineers handle a large number of permits and are unable to visit many of the feedlot sites either prior to permit approval or at various stages of construction. A limited number of staff in MPCA regional offices are available to assist the engineers by conducting some feedlot inspections. However, this staffing arrangement is difficult to manage and does not provide sufficient engineering expertise at feedlot locations outside of the Twin Cities metropolitan area.

As a result of the current staffing arrangement, MPCA has paid more attention to policy issues that can be dealt with in St. Paul and inadequate attention to visiting feedlot sites prior to permit approval, as well as during and after feedlot construction. MPCA has paid significant attention to the design standards for

MPCA has not paid adequate attention to visiting feedlot sites prior to permit approval and during construction.

manure storage structures but not enough to whether construction is occurring as designed. The agency has attempted to address this concern by requiring consulting engineers working for feedlot owners to report to MPCA on construction work. However, this reporting requirement is not always followed, and MPCA needs a larger presence in the field to ensure that engineers and contractors are following the agency-approved design and permit requirements. Counties with the resources to do such inspections have told us that their presence at construction sites helps ensure that good construction work is done. That assurance provides a benefit not only to the public, which is interested in protecting the environment, but also to the feedlot owner, who is interested in receiving good value for the price paid for the construction work. We recommend that:

- **MPCA should conduct more site visits of feedlots during and after construction work, particularly when that construction is in an environmentally sensitive area or involves contractors or engineers that MPCA is unfamiliar with or has had problems with on previous feedlot projects.**

MPCA also reviews most permit applications and other documents in St. Paul without visiting feedlot sites prior to permit approval. While such a procedure can work for some permits, it is usually preferable to visit the site of a proposed new feedlot or expanded feedlot prior to permit approval to make sure that the environmental risks of the site have been accurately presented by the permit applicant. Visiting all sites is not feasible with current MPCA resources and would probably not be cost-effective to do. However, MPCA needs to do a better job of visiting those sites where the potential for significant environmental concerns is present. For example, MPCA needs trained staff to visit sites in the karst regions of the state, since maps of sinkholes can quickly become outdated and cannot be relied on to provide a complete summary of all the environmental risks. We recommend that:

- **MPCA should conduct more site visits prior to issuing feedlot permits, particularly for feedlots in environmentally sensitive areas.**

MPCA's permit review is not always thorough and complete.

MPCA also needs to make sure that the permit review process is thorough and complete. We found instances in which MPCA granted permits without receiving important documents, such as an engineer's certification that work was completed in accordance with the approved design specifications, a permeability test estimating the seepage rate of an earthen manure storage basin, or notifications to MPCA of when construction work would occur. We also found numerous instances where required karst reviews were not in permit files. We recommend that:

- **MPCA should strive to provide a thorough review of all permit applications and ensure that required documents are filed with the agency in a timely way.**

MPCA recently implemented a construction report review checklist that will help remind staff of the need to follow up on construction requirements. This checklist will not, however, ensure that staff actually follow up on these requirements. For

MPCA does not adequately track interim permits, and many of them have expired.

example, an existing checklist listing karst reviews was not sufficient to ensure that the reviews were completed or, if completed, placed in the permit file.

We also found that MPCA does not have a system for tracking interim permits. As a result, the agency has several file cabinets full of interim permits, many of which have expired. Follow-up on interim permits is desirable to ensure that permit recipients have constructed, expanded, or modified their feedlots in accordance with the requirements of their interim permits—some of which were issued because of known pollution hazards. We recommend that:

- **MPCA should notify feedlot owners with expired interim permits and take appropriate actions.**

The action will clearly depend on the circumstances of each case. In some cases where a project has been delayed and an existing pollution hazard is not present, the appropriate action may be to issue a new interim permit. In other cases where construction has occurred, MPCA staff should inspect the facility and determine if a certificate of compliance should be issued or if enforcement action is appropriate.

- **MPCA also needs to develop a tracking system to make sure that feedlot owners follow through on permit requirements.**

The nature of this system will depend on whether MPCA continues to issue interim permits in the future. MPCA is currently considering the elimination of interim permits as contemplated in a draft of its proposed rules. The elimination of interim permits in the future will not, however, diminish the need to follow up on feedlot permit recipients to ensure that they have completed construction in accordance with design specifications and MPCA requirements. In fact, the tracking system will probably be more important since feedlot owners will already have their permit in hand and will not need to convert the permit to a certificate of compliance.

We also observed that current permit applications do not require applicants to provide sufficient information on manure management practices. MPCA's proposed rules may address some of these concerns. However, we think that once new rules are adopted MPCA should modify the permit application to reflect the fact that the rules will not allow manure application within a particular number of feet of certain features such as lakes, streams, or tile inlets. The permit application should indicate that the applicant should not count land within these setbacks as land that is available for manure application.

MPCA has had a backlog of permit applications.

Finally, we found that MPCA has difficulty reviewing permit applications in a timely manner. Backlogs of one to two months between receipt of a completed application and the beginning of an engineering review are typical and can be larger at times. A draft of MPCA's new rules acknowledges this problem by advising permit applicants to submit applications 145 days before they hope to begin the construction of a new feedlot or 180 days before their current permit expires if they are applying to expand an existing feedlot or renew an existing permit. We recommend that:

- **MPCA should strive to reduce its permitting backlog and reduce the amount of time producers wait for their applications to be reviewed.**

MPCA has information on permit applications in one database and information on permits issued in another database. When permits are issued, information is transferred from the first database to the second. However, MPCA routinely deletes information useful in tracking permit issuance time when it makes this transfer. Retaining the information could be useful in tracking the agency's performance. Accordingly, we also recommend that:

- **MPCA should track the timeliness of its performance in issuing permit applications.**

Environmental Review

In general, we found that MPCA has improved the manner in which it has handled its environmental review responsibilities. The improvement has come largely in the last year as the agency has learned more about potential air quality issues and has been able to focus attention on potential hydrogen sulfide and ammonia emissions rather than generalized concerns about odor. MPCA has, however, had difficulty keeping pace with a growing workload and was not able to complete environmental assessment worksheets in a timely manner during 1998. In typical years, the agency has had about two full-time equivalent staff working on environmental reviews of feedlots. Because of the increased workload in 1998, MPCA temporarily assigned two additional staff to help reduce the backlog of environmental assessment worksheets (EAWs).

We are concerned that the Environmental Quality Board has proposed a rule change that may increase the number of EAWs done by MPCA. EQB's proposed rule change would eliminate the application of the connected action rule to feedlots but would require a mandatory EAW for new total confinement feedlots or feedlot expansions of 1,000 or more animal units. This is a substantial change from the current cutoff point of 2,000 animal units for a total confinement facility.

We understand the reasons why EQB and its staff developed this proposed rule change and are generally supportive of the environmental review process. However, we think that a higher priority should be placed on other problems in the feedlot regulation program. For example, we would place a higher priority on increasing the number of site visits MPCA makes prior to permit approval and during and after construction. Strengthening MPCA's ability to enforce state laws and rules should also be given higher priority than increasing the number of EAWs. As a result, we recommend that:

- **The Legislature should review the need for, and the potential cost of, the Environmental Quality Board's proposed rule on the environmental review of feedlots.**

The 1998 Legislature required EQB to submit its proposed rule and a summary of public comments received to specific legislative committees and divisions by March 1, 1999 and prohibited EQB from adopting the new rule for 60 days after the items are submitted. This requirement provides the Legislature with an

Due to a growing workload in 1998, MPCA has been unable to complete EAWs in a timely manner.

opportunity to review the proposed rule and provide input and direction to the EQB.

Complaint Handling and Enforcement

MPCA needs to document its response to complaints about potential water pollution.

MPCA has a mixed record with respect to complaint handling. MPCA staff have done a good job of documenting the receipt of odor complaints, the subsequent measurement of hydrogen sulfide emissions, and the actions by producers to mitigate odor problems. In contrast, MPCA staff do not record many of the complaints they receive about potential water pollution problems and do not adequately document the resolution of the complaints they do record in the feedlot complaint log. As a result, we were unable to reach any conclusions about whether MPCA adequately addresses complaints regarding water pollution from feedlots. We think the consistent use of a complaint log is useful both for internal management purposes as well as for demonstrating the magnitude of the agency's workload and achievements to policy makers and the public. Consequently, we recommend that:

- **MPCA should require staff to record all complaints received about feedlots and briefly document how each complaint is resolved.**

We also found problems with MPCA's enforcement activities dealing with water quality. Although the agency has recently taken several significant enforcement actions, its general track record has not been good. MPCA has taken a long time to complete some enforcement actions, and staff have not been able to keep up with their enforcement caseload. MPCA needs to process enforcement cases involving potential water pollution more quickly. Long delays diminish the deterrent value of enforcement, may threaten water quality, and give the appearance that the agency is not serious about enforcement. In addition, the agency has been inconsistent in its enforcement efforts across the state. At least one regional office has not pursued potential enforcement cases involving feedlots. We recommend that:

- **MPCA should require regular status reports from investigators to ensure that progress is being made on water quality enforcement cases.**
- **MPCA should have more staff resources assigned to water quality enforcement activities in order to reduce the backlog and speed up the resolution of cases.**
- **MPCA should ensure that regional offices are consistent in their willingness to investigate potential water quality violations.**

Long delays with some enforcement cases have been a problem at MPCA.

Because MPCA's hydrogen sulfide monitoring program is relatively new, the program has less of a track record in enforcement to examine. The program, which began in 1997, has focused mainly on monitoring hydrogen sulfide emissions at feedlots with odor complaints and encouraging feedlot owners to try various methods to reduce the hydrogen sulfide emissions and odor problems. MPCA has directed only two feedlots to take specific actions to reduce emissions.

The agency is now attempting to develop a policy that would spell out what mitigation steps various types of feedlots should follow. We believe that MPCA will face a number of challenges in developing such a policy due in part to the limited knowledge available from existing research. We encourage MPCA to make sure that the mitigation steps it orders are appropriate and will address the source of emissions and odors. We also encourage MPCA to be careful not to order excessively costly remedies. The agency needs to consider the benefits and costs of the various solutions that meet emission standards.

Ongoing Oversight of Feedlots

There is no statewide inventory of feedlots, and many counties have not conducted inventories.

In addition to complaint handling and enforcement, there are other elements of ongoing oversight that merit attention. There is no statewide inventory of feedlots, and only about 13 counties have completed or are working on a Level 3 inventory that will enable regulators to know which feedlots have a water pollution problem. Statewide, there about 36 counties that have not conducted and are not working on any type of inventory, including 6 delegated counties. Some form of inventory or sampling will be done as part of the Generic Environment Impact Statement (GEIS) on Animal Agriculture, but the details of this aspect of the GEIS will probably not be decided until early 1999. If the Environmental Quality Board chooses to sample feedlots rather than inventory them, the costs can be less and the sampling may still produce useful information on the general types of feedlot with pollution problems. However, information from counties with Level 3 inventories already suggests that most existing water pollution problems are on small feedlots. County feedlot officers responding to our survey also confirmed that they believe small feedlots are currently more often the source of water pollution problems than large feedlots. It is unclear at this time what additional information a sampling of feedlots would provide, although it may provide a broader confirmation of those findings or more detailed information on the nature of water pollution problems statewide. Sampling could also be used to examine issues not usually looked at during an inventory such as manure management practices.

In the long run, it would be better for regulatory purposes to have Level 3 inventories in as many counties as possible. These inventories enable regulators to focus their oversight and enforcement activities on specific feedlots with problems. However, the need for inventories has to be balanced with the ability of regulators to use those inventories. Funding extensive inventories may only make sense when either the counties or MPCA have the staffing resources to use the inventories in their regulatory programs. The lack of sufficient technical assistance for farmers needing to correct problems identified during an inventory can also diminish the usefulness of an inventory. We recommend that:

- **The Legislature should carefully weigh the need for additional county inventories for regulatory purposes along with the budget request it will receive for the Generic Environmental Impact Statement on Animal Agriculture.**

MPCA needs to develop a better strategy to get owners of small feedlots to correct water pollution hazards.

Even with a good inventory and adequate regulatory support, it can be difficult to get owners of small existing feedlots to correct water pollution hazards at their facilities. Owners of small feedlots may lack adequate resources and may not be able to borrow money at a reasonable interest rate. Formulating a policy to address this problem is difficult. It would be most efficient from the standpoint of the taxpayer if regulators were able to identify those feedlots that need assistance in order to correct water pollution hazards and are not likely to make those corrections without assistance. The policy would also be effective only to the extent that these feedlots remain in business. If a feedlot is likely to close for financial reasons, investing either public or private money in correcting pollution hazards that result from the operation of the facility does not make sense. Targeting these feedlots is very difficult.

An alternative approach in some cases might be for MPCA to accept a less than perfect, but more cost-effective, solution to water pollution abatement when dealing with small existing feedlots, particularly those under 300 animal units.¹ For example, getting the owner of a small open lot or partial confinement facility with limited resources to make changes that take care of 80 percent of the pollution problems at 20 percent of the cost of the ideal solution may be more cost effective than other alternatives. Achieving some reduction in open lot runoff may also be a more realistic solution given the number of these feedlots, the limited public funds available statewide for cleanup, and the risk that such feedlots may not stay in business. We recommend that:

- **The Legislature, MPCA, and other policy makers should consider alternative ways of reducing water pollution emanating from small feedlots, including the need for additional public funds as well as more cost-effective ways of achieving a reduction in water pollution.**

A related concern involves the proper closure of feedlots. Proper closure is needed to prevent potential pollution to either surface or ground water. MPCA currently does not have any rule or permit requirement regarding feedlot closure and lacks a mechanism for ensuring that feedlots are properly closed. MPCA is considering rule changes that would spell out the responsibility of a feedlot owner in the event that the owner closes a feedlot. In addition, as a result of a legislative directive, the agency is studying the need and funding for an animal waste liability account that could be used for closure as well as general containment and cleanup. This report was not available at the time we conducted our research but should be available by January 15, 1999.

MPCA and most counties do not inspect existing feedlots enough.

A final concern about ongoing oversight is the relative absence of periodic inspections of existing feedlots. MPCA does not currently have the resources to conduct such inspections except in response to complaints, and most delegated counties do not conduct such inspections either. Thus, other than following up on complaints, MPCA and most counties do not have a mechanism for ensuring that feedlots are operating in accordance with their permits. For example, there is little

¹ Such an approach works best with small existing feedlots, since owners of those feedlots are more likely to be unable to afford expensive pollution upgrades. In addition, according to MPCA staff, federal rules may restrict the use of such an approach with feedlots of 300 to 999 animal units and prohibit its use with feedlots of 1,000 or more animal units.

or no oversight of the application of manure to land. MPCA has required many feedlots to maintain records of manure application but rarely reviews those records. Along with the need for additional resources in other aspects of feedlot regulation, policy makers should consider the need for resources to conduct periodic feedlot inspections.

MPCA Oversight of Counties

Delegated counties vary considerably in the amount of resources they devote to feedlot regulation. Some counties have very good programs, while others are not devoting sufficient resources to do more than process permits. Appropriations bills have required counties to match the state appropriations they receive with a combination of cash and in-kind contributions. Some counties provide local funding far in excess of the required amount—sometimes two to four times the state appropriations received. However, other counties do not appear to be providing local resources to match the state contribution.

MPCA has provided little oversight of county feedlot programs, thus allowing some counties to continue in the program using minimal resources and providing a minimal regulatory effort. We recommend that:

- **MPCA should provide more effective oversight of county feedlot programs. The agency should ensure that counties are meeting the financial requirements set forth in law and should establish expectations and standards for county feedlot programs.**

MPCA recognizes the need for better oversight and has developed language in its draft of new rules that will help establish expectations for counties in the program. However, the agency needs to go further than just set forth some general expectations. MPCA needs to make sure that counties are meeting the state's match requirement and are doing an adequate job in permitting and other functions. MPCA needs to work closely with counties and be somewhat patient while attempting to improve the fiscal effort and regulatory performance of counties. However, MPCA also needs to be willing to terminate a county from the feedlot program if the agency's efforts fail and the county is unwilling to meet state standards.

By the same token, we think that:

- **MPCA should encourage, and the Legislature should support, the participation of additional counties in the feedlot program.**

With technical assistance and proper oversight, counties can provide a valuable regulatory service. County staff will always be located closer to the regulated facilities than MPCA staff and thus be able to more efficiently visit the sites of proposed feedlots, check on construction, and follow up on complaints. Increasing the number of counties in the feedlot program will help to reduce MPCA's permitting workload, particularly the permitting of small feedlots, and enable the agency to improve its performance in a number of areas. Adding more counties will also leverage county funds for regulatory purposes and thus make it

MPCA's oversight of county feedlot programs has been weak.

less costly to the state to improve feedlot regulation than appropriating funds to MPCA and relying on MPCA staff to carry out the improvements.

We also recommend that:

- **MPCA should attempt to ensure that county feedlot officers receive adequate training.**

A number of delegated counties responding to our survey cited training as one area in which MPCA could improve county feedlot programs. Only 30 percent of the counties said training provided by MPCA was “good” or “very good.” Some counties indicated that they could use better training in the technical aspects of the job. Others wanted more on-the-job training, such as having an MPCA engineer accompany them on feedlot inspections to help them gain better first-hand knowledge of what they should focus on during inspections. In order for MPCA to rely on counties to appropriately issue permits and perform other regulatory functions, the agency needs to make sure that county staff have adequate training.

IMPLEMENTATION OPTIONS

In general, we think that:

- **MPCA should make every possible effort to implement the recommendations in this report by using existing resources.**

MPCA has four vacant positions in the feedlot program that should be used to increase the program’s staffing outside the Twin Cities area. These positions should be used to increase the number of feedlot site visits done prior to permit approval and during and after construction. The positions should also be used to improve MPCA’s responsiveness to complaints and its timeliness in enforcement activities.

MPCA needs to move more of its feedlot staff outside the Twin Cities.

In addition, MPCA should consider moving some of its existing feedlot staff out to regional offices or other decentralized locations. Such a move could further enhance the agency’s ability to visit feedlot sites and work with both feedlot owners and citizens concerned about feedlot pollution. The main disadvantage of MPCA attempting to move existing staff out of the Twin Cities metropolitan area is that the agency may, by forcing the issue, lose some of its experienced staff who are not interested in moving. There may also be logistical problems and costs involved with finding office space to house staff elsewhere.

We think that MPCA should be expected to make some other improvements with existing resources. For example, MPCA should be expected to do a more thorough job in reviewing permit applications and should be able to develop a system for tracking interim permits or, if the agency eliminates interim permits, a system for tracking the requirements that design engineers and feedlot owners are expected to meet during and after construction. MPCA should also be able to implement better systems for enforcement case management and complaint handling. We also think that MPCA should be able to provide a basic level of

county program oversight. Without additional resources, that oversight may be limited at first to a review of whether counties are meeting state aid matching requirements. Finally, MPCA should be expected to develop cost-effective strategies for addressing water pollution problems with small feedlots, as well as policies for addressing hydrogen sulfide and other air emission problems at feedlots.

However, we think that:

- **MPCA and counties would probably need additional resources to address certain problems in feedlot regulation.**

Without additional resources, MPCA is unlikely to be able to conduct periodic inspections of operating feedlots or to monitor whether feedlots have been properly closed. We also think that progress in identifying and addressing long-standing pollution problems with small feedlots in non-delegated counties will be slow. MPCA may be able to develop strategies to help delegated counties make progress, but the MPCA feedlot program does not have the resources to run what would amount to 35 to 40 county programs in the non-delegated counties.

A better way of addressing these concerns would be for MPCA to encourage more counties to participate in the feedlot program, have clear expectations about their responsibilities, and provide greater technical support to and oversight of county programs. Pursuing that approach, however, will require additional funding for an increase in the number of participating counties. It would also require more funding for detailed inventories, technical assistance to feedlot owners, and possibly financial assistance to feedlot owners if policy makers want to speed up progress in identifying and addressing pollution programs. Some progress can be made using existing levels of resources such as the competitive grant portion of state aid for delegated counties, but that progress is likely to be slow. Additional funds for MPCA oversight of county programs would also be desirable.

One difficulty with this approach is that counties vary considerably in the degree to which they are interested in providing resources for feedlot regulation. Some counties currently participating in the feedlot program may not even be meeting state aid matching requirements. Greater financial oversight of county programs by MPCA can help to some extent, but this problem may not have an easy solution. Placing greater expectations on county programs is needed, but it may be difficult to translate these expectations into better performance if county boards are reluctant to spend more than required by law and could cause some counties to leave the program. Targeting state aid to counties with minimal programs would also be unfair to counties that have used significant local funds to establish comprehensive regulatory programs. Increasing the state grant per feedlot would help counties with minimal programs but could also supplant local resources currently devoted to feedlot regulation in other counties. Despite these concerns, we think that encouraging greater county participation, increasing expectations for county programs, and providing more oversight will generally help to improve feedlot regulation while leveraging state funds with local dollars.

Without additional resources, MPCA may also have difficulty in reducing the time it takes to get permits approved or EAWs completed. If the four vacant positions

Increased county participation in the feedlot program and effective MPCA oversight of counties are needed to improve feedlot regulation.

were used to improve permit turnaround time, they would likely be assigned to the St. Paul office. Using the positions in St. Paul, however, would only make it more difficult for MPCA to move staff to more decentralized locations in the future. The agency clearly needs to decentralize its feedlot regulation program, and its overall agency reorganization has served to highlight that need. However:

- **For several reasons, it is unclear how much additional resources MPCA may need to improve its feedlot program.**

First, it is difficult to estimate how market forces may affect the agency's workload in the future. Low hog prices, if they continue, could dramatically reduce the number of permit applications for new or expanded swine feedlots, while this year's increase in milk prices could result in more applications for dairy feedlots. Whether these price trends will continue and for how long is difficult to gauge.

Second, MPCA and EQB are considering rule changes that could significantly affect MPCA's workload. MPCA's draft of proposed rules requires certain existing feedlots to obtain new permits and requires some permits to be renewed periodically. EQB is proposing a rule change that may increase MPCA's environmental review workload. In addition, MPCA will need to meet legislative deadlines for issuing NPDES permits to existing feedlots with 1,000 or more animal units.

Third, because these changes would likely add to its workload, MPCA is considering ways of streamlining the permitting process through the use of "short form permits" for certain feedlots. Short form permits would allow a feedlot to obtain a permit by certifying that it meets MPCA standards. The permitting process would be streamlined because MPCA would not review every permit application like it currently does. The use of short form permits could free up resources and allow the agency to conduct annual compliance inspections of a small percentage of existing feedlots as well as more inspections of proposed feedlot sites and construction work on new or expanding feedlots that are not eligible for a short form permit. It is not possible at this time to analyze how well this alternative permitting approach would work, since MPCA's proposal is not yet complete. MPCA will need to design the system so that it minimizes the additional environmental risks involved in not reviewing certain permit applications while maximizing the benefits of freeing up resources for regulatory efforts that are a higher priority.

MPCA needs to provide better information to policymakers on its need for more resources.

Finally, as we discussed in Chapter 2, it is difficult to quantify the need for more staff in MPCA's feedlot program because the agency does not have data on the average amount of staff time needed to perform certain tasks such as permit review. Internally, MPCA staff have estimated that the feedlot program, including related functions such as environmental review and air quality monitoring, needs more than twice the current number of staff to adequately perform its duties. We are skeptical of such estimates because they have not been based on estimates of workload and the number of hours needed to complete major tasks.

MPCA and other agencies have been discussing a feedlot budget initiative with the Feedlot and Manure Management Advisory Committee (FMMAC). The latest

proposal, presented at the December 1998 FMMAC meeting, would provide MPCA with funding for roughly 15 or 16 new positions. We recommend that:

- **If MPCA presents a request for additional feedlot staff to the Legislature, MPCA should provide the Legislature with more information on its estimated workload and the average amount of staff time it takes to complete major tasks.**

While it may be difficult to make workload estimates and estimates of task completion time, MPCA needs to be held more accountable for the resources used in the feedlot program. The program has grown considerably during the 1990s. Further budget increases should be justified based on a comparison of the amount of staff resources needed to complete various tasks to the amount of staff resources currently available.

Other options should be considered before appropriating more funds to MPCA.

We also recommend that:

- **Before appropriating any additional funds to increase MPCA feedlot staffing, the Legislature should consider whether funds from other MPCA activities could be permanently reallocated to feedlot regulation.**

We have heard anecdotes suggesting that feedlot staff are overworked while some other MPCA staff are underutilized. It may make sense to reallocate resources from other MPCA activities to feedlot regulation if those resources can be legally used for feedlot regulation and feedlot regulation is seen as a higher priority than current uses of those resources. We encourage MPCA and the Legislature to consider reallocating funds to feedlot regulation.

Another alternative to increased state General Fund appropriations for feedlot regulation is fee revenue. It could be argued that the livestock industry should pay more of the costs of regulation. Currently, the general taxpayer is financing most of the cost of state feedlot regulation. However, MPCA estimates that permit fee revenue from feedlots will increase from about \$31,000 in fiscal year 1999 to \$198,000 in 2000 and \$376,000 in 2001 as more feedlots are required to obtain NPDES permits. The agency also estimates that certain new fees could raise additional revenue. For example, MPCA estimates that a \$3 per animal unit fee on all new construction and expansion would generate about \$762,000 per year. A \$1 per animal unit fee for any facility using a "short form permit" approach MPCA is considering might raise an additional \$170,000 annually. Including revenue from all of these sources, MPCA would have enough funds to hire about 19 to 20 additional staff in the year 2001.

The disadvantage of a fee-based approach is its potential effect on the livestock industry. Perhaps more than other regulated industries, the livestock industry operates in very competitive markets in which producers cannot raise their prices to reflect the costs of regulation if competitors in other states are not similarly regulated. In addition, the current low prices for hogs make it difficult to justify imposing fees on a segment of the livestock industry that is struggling to remain in business.

SUMMARY

There are numerous improvements needed in feedlot regulation at the state and county levels. Some of these improvements can be addressed within existing resources, but others would require additional resources. We recommend that MPCA should encourage, and the Legislature should support, the participation of more counties in the feedlot regulation program. Greater oversight of county programs by MPCA is also needed.

In considering the need for additional resources for feedlot regulation, the Legislature should examine whether existing resources for other MPCA activities should be reallocated to feedlot regulation. In addition, MPCA should provide the Legislature with more detailed information on its estimated workload in feedlot regulation and the ability of existing resources to meet that workload in future years.