

459A.103 Special terms.

For purposes of this chapter, all of the following shall apply:

1. *a.* Two or more open feedlot operations under common ownership or common management are deemed to be a single open feedlot operation if they are adjacent or utilize a common area or system for open feedlot effluent disposal.

b. For purposes of determining whether two or more open feedlot operations are adjacent, all of the following shall apply:

(1) At least one open feedlot operation structure must be constructed on or after July 17, 2002.

(2) An open feedlot operation structure which is part of one open feedlot operation is separated by less than one thousand two hundred fifty feet from an open feedlot operation structure which is part of the other open feedlot operation.

c. For purposes of determining whether two or more open feedlot operations are under common ownership, a person must hold an interest in each of the open feedlot operations as any of the following:

(1) A sole proprietor.

(2) A joint tenant or tenant in common.

(3) A holder of a majority equity interest in a business association as defined in section 202B.102, including but not limited to as a shareholder, partner, member, or beneficiary.

An interest in the open feedlot operation under subparagraph (2) or (3) which is held directly or indirectly by the person's spouse or dependent child shall be attributed to the person.

d. For purposes of determining whether two or more open feedlot operations are under common management, a person must have significant control of the management of the day-to-day operations of each of the open feedlot operations. Common management does not include control over a contract livestock facility by a contractor, as defined in section 202.1.

2. An open feedlot operation structure is "*constructed*" when any of the following occurs:

a. Excavation commences for a proposed open feedlot operation structure or proposed expansion of an existing open feedlot operation structure.

b. Forms for concrete are installed for a proposed open feedlot operation structure or the proposed expansion of an existing open feedlot operation structure.

c. Piping for the movement of open feedlot effluent is installed within or between open feedlot operation structures as proposed or proposed to be expanded.

3. *a.* In calculating the animal unit capacity of an open feedlot operation, the animal unit capacity shall not include the animal unit capacity of any confinement feeding operation building as defined in section 459.102, which is part of the open feedlot operation.

b. Notwithstanding paragraph "a", only for purposes of determining whether an open feedlot operation must obtain an operating permit, the animal unit capacity of the animal feeding operation includes the animal unit capacities of both the open feedlot operation and the confinement feeding operation if the animals in the open feedlot operation and the confinement feeding operation are all in the same category or type of animals as used in the definitions of large and medium concentrated animal feeding operations in 40 C.F.R. pt. 122. In all other respects the confinement feeding operation shall be governed by chapter 459 and the open feedlot operation shall be governed by this chapter.

4. An open feedlot operation structure is abandoned if the open feedlot operation structure has been razed, removed from the site of an open feedlot operation, filled in with earth, or converted to uses other than an open feedlot operation structure so that it cannot be used as an open feedlot operation structure without significant reconstruction.

5. All distances between locations or objects provided in this chapter shall be measured in feet from their closest points.

6. The regulation of open feedlot effluent shall be construed as also regulating settled open feedlot effluent and solids.

7. "*Seasonal high-water table*" means the seasonal high-water table as determined by a professional engineer pursuant to the following requirements:

a. The seasonal high-water table shall be determined by evaluating soil profile

characteristics such as color and mottling from soil corings, soil test pits, or other soil profile evaluation methods, water level data from soil corings or other sources, and other pertinent information.

b. If a drainage tile line to artificially lower the seasonal high-water table is installed as provided in section 459A.302, the level to which the seasonal high-water table will be lowered will be the seasonal high-water table.

2005 Acts, ch 136, §3; 2006 Acts, ch 1030, §45; 2008 Acts, ch 1191, §144, 147, 148