



January 26, 2006

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Policy Advisor  
Strategic Policy Branch  
77 Grenville Street, 11<sup>th</sup> Floor  
Toronto ON M5S 1B3

**Subject: EBR # PC05E1206  
Draft MDS**

Dear Policy Advisor,

The Ontario Professional Planners Institute (OPPI) is pleased to provide comments on the proposed changes to Minimum Distance Separation (MDS). These comments were prepared by the Agriculture and Rural Working Group of the Policy Development Committee, which consists of Registered Professional Planners from the southwest, central and eastern parts of Ontario.

The usefulness of Minimum Distance Separation (MDS) in rural Ontario is evidenced by the widespread inclusion of MDS in official plans and zoning by-laws across Ontario, especially in areas of intensive livestock farming. OPPI supports the government's proposal to update and clarify the MDS.

The proposed guidelines are a considerable improvement over the existing MDS policy. The purpose and intent of the policy is clearer and areas of confusion or deficiency have been improved (for example, where and how MDS applies; points of measurement; guidelines for vacant barns; changes without an expansion; the three-year rule on expansions). The MDS for anaerobic digesters is a noteworthy improvement and is expected to be useful when the government develops standard offer contracts for renewable sources of energy (a move that is expected to have significant benefits for rural water and air quality, odour reduction, agricultural viability, and community relations between farmers and non-farmers).

However, OPPI would like to make some suggestions for further improvement.

**Increased MDS**

Generally, the calculated distances were found to increase the required setbacks for new and expanding operations compared to the existing MDS. The guidelines suggest that the intent is to establish a sizable separation between new livestock operations and neighbouring uses for these operations, so that subsequent expansions to enhance competitiveness can be accommodated within a reasonable building envelope.

Although OPPI supports this approach, OMAFRA is cautioned to ensure that the resulting distances do not place undue hardship on operations that were established before MDS was introduced. In many cases, such operations consist of family farms with livestock housed within the original homestead cluster of buildings. Consideration should be given to allowing these operations some flexibility to expand in place. If the MDS is too onerous, these operations may be forced to construct new buildings on "greenfield" sites on the farm, or may face pressure to abandon livestock production altogether. One option would be to authorize the minor variance process to consider matters of economic viability when smaller existing operations are proposing reasonable expansions.

## **MDS II - Type A Land Uses**

Experience in rural Ontario suggests that the following uses should be considered Type A land uses, where barns and manure storage facilities could be set back by the single factor, rather than the doubling factor:

- cemeteries (whether active or closed);
- golf courses (doubling could apply to clubhouse buildings only);
- sports fields;
- conservation areas (doubling could apply to campground areas only);
- churches;
- municipal services sites (such as municipal offices, works yards, landfill sites, transfer stations, sewage facilities).

Unlike dwellings, these facilities are used intermittently and should not require a larger setback for new or expanding barns than dwellings require. Also, many of these uses are no longer permitted in areas designated as agricultural; the Provincial Policy Statement directs them to urban areas. Classifying these uses as Type B results in an increased potential burden on agriculture because of past planning approaches.

## **MDS I - Land Base Assessment**

The MDS requires new dwellings and other buildings to be set back from existing livestock facilities (whether used or vacant) according to a land base assessment that generates potential nutrient units. Like the existing MDS, this requirement protects existing livestock facilities to some extent from encroaching uses that would generate a setback under MDS II. The difficulty with implementing this provision is that an existing barn capable of housing only 5 nutrient units, located on a 40-hectare farm, receives some protection, while a neighbouring 40-hectare farm with no buildings receives no protection. Unless farms with no buildings are to be protected (which would be difficult), OMAFRA is encouraged to review the land base assessment approach to ensure it is not unduly onerous, especially for small existing barns that have little potential to be used for commercial livestock purposes.

## **Residential Clusters**

The statement on page 22 that "Rural residential clusters are not applied or considered in MDS II" should clarify that these clusters are considered Type A land uses. Otherwise, the statement suggests there is no setback required for new or expanded livestock facilities from residential clusters.

## **Software**

The MDS should specify the accepted software or formula to be used. Calculated distances should be the same whether calculated with or without software.

## **Minor Variances**

The guideline on page 14 that "MDS I should not be varied" is of some concern. There are many situations in which it may be appropriate to vary MDS I. For example, a small portion of a permitted non-farm use could require minor relief from MDS, or a new agricultural commercial operation could warrant a minor MDS reduction.

In addition, once MDS is incorporated into a zoning by-law, section 45 of the *Planning Act* governs any variances, along with the requirement to "be consistent with" the Provincial Policy Statement. It is through the PPS that MDS will affect minor variances, but the MDS should not prohibit minor variances.

## **First Livestock Facility**

The term "first livestock facility" in MDS II should be defined. Many older farms may have had livestock at one time, but do not have livestock buildings at present. "First" could refer to "no other livestock facilities on the lot of record at the time of application."

## **Summary of Changes**

A chart detailing the important changes between the existing and new MDS would be most helpful. This information would improve understanding and implementation of the new MDS by practitioners (planners, building officials, etc.) and municipal politicians.

If you have any questions, please contact Andrea Bourrie, MCIP, RPP, Interim Policy Manager, [policy@ontarioplanners.on.ca](mailto:policy@ontarioplanners.on.ca) or 416-483-1873 x226.

Yours sincerely,



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