

AOPA APPLICATION PROCESS

WHERE NEIGHBOURS FIT IN

The Agricultural Operation Practices Act (AOPA) is provincial legislation which sets manure management standards for all operations that handle manure. The Act defines siting and construction standards for manure storages and collection facilities and sets out regulations governing the management of manure. Through the application process, directly affected neighbours and municipalities have an opportunity to address environmental concerns. As well, through the complaint process neighbours can address environmental and nuisance concerns regarding an agricultural operation. This factsheet outlines the application process in more detail.

Alberta Agriculture and Rural Development (ARD) is responsible for developing and updating AOPA legislation. As well, ARD has the responsibility to provide information on all aspects of the Act to all stakeholders.

The Natural Resources Conservation Board (NRCB) is responsible for the permitting and enforcement of Confined Feeding Operations (CFOs), and addressing complaints about agricultural operations.

Whether you are a country resident or a neighbouring agricultural operation, a new or expanding confined feeding operation could affect you. Understanding the application process and how neighbours can be involved allows you to take advantage of your rights and opportunities.

The following introduces the Application Process:
Steps in blue are ones that neighbors can be directly involved in.

APPLICATION FOR DEVELOPMENT, EXPANSION OR PROPOSED CHANGE OF A CONFINED FEEDING OPERATION SUBMITTED TO THE NATURAL RESOURCES CONSERVATION BOARD (NRCB)

An application is made by those who wish to construct a new confined feeding operation (CFO), expand or modify an existing operation or make changes to an existing permit. The type of permits that can be applied for are:

Registrations are permits for smaller CFOs based on threshold numbers in AOPA.

Approvals are permits for larger CFOs based on threshold numbers in AOPA.

Authorizations are permits for construction of manure storage facilities or manure collection areas.

Operators may also apply to amend a permit that was previously issued by the NRCB, or by a municipality prior to 2002. The review of an application for an

amendment follows a different process and is not addressed in this factsheet.

The application process consists of two parts.

Part I

Part I contains general information on the proposed development. It is submitted to the NRCB, who will inform the municipality of the proposed development by providing them with a copy of the Part I.

The Part I application marks the start of the application process. It allows applicants to declare their intent to construct or expand a confined feeding operation. It also sets the date for establishing the minimum distance separation (MDS). MDS is a setback distance established between a CFO and neighbouring residences. Its purpose is to help manage the impact of odours. Each facility has an MDS that is determined by various characteristics of the operation, such as livestock type and factors such as land zoning. If the operation does not meet the MDS requirements set out in AOPA, the applicant may ask the affected neighbour to waive their right to the MDS.

Part II

Part II gathers technical information about the proposed development. This includes information on the following:

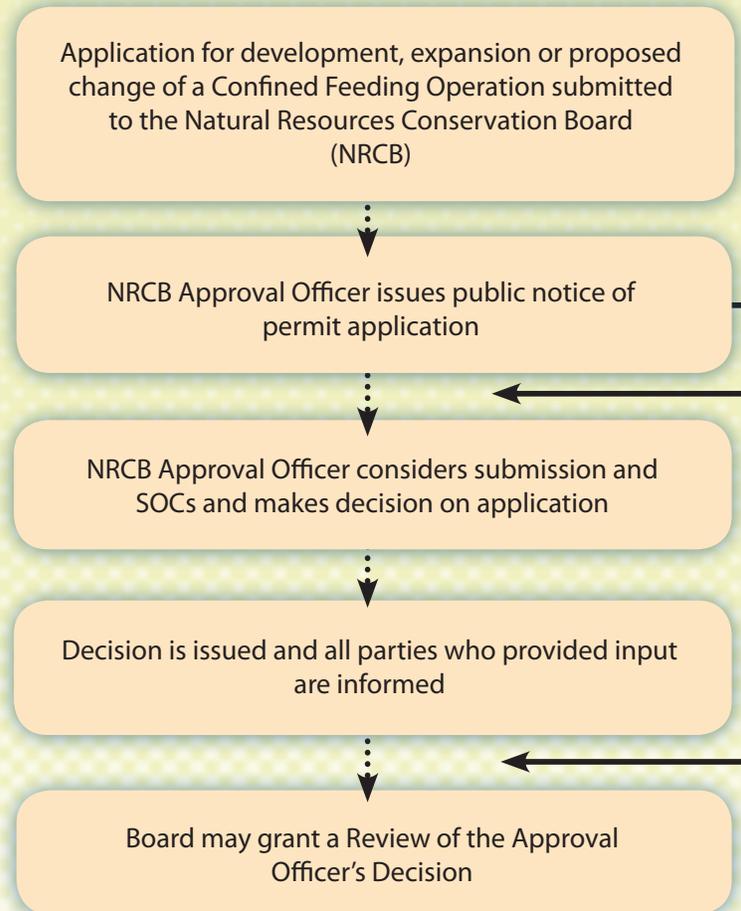
- existing and proposed facilities,
- proposed facilities,
- distance to neighbouring residences (not required for an authorization),
- general surface water and ground water information,
- engineering reports and recommendations if required,
- land base required for manure and compost application,
- detailed site plan,
- area plan, and
- construction standards that the proposed facilities will be built to.

Depending on the site and proposed development, a third party consultant may be used to ensure site conditions and construction standards are met.

Once Part II of the application is completed, it is submitted to an NRCB Approval Officer. Throughout the Part II process, the applicant works with the NRCB Approval Officer to ensure that all requirements under AOPA are being met. As well, the applicant may have received technical support from the local ARD CFO Extension Specialist.

NRCB APPROVAL OFFICER ISSUES PUBLIC NOTICE OF PERMIT APPLICATION

Under AOPA, “approval” and “registration” permit applications require public notice. The NRCB approval officer issues a public notice when the approval officer is satisfied that an application for an approval is complete. Public notice requires notifying potentially affected persons, municipalities and other agencies that have a role in assessing the particular CFO. which may include Irrigation Districts, Alberta Health Services, Alberta Transportation or Alberta Environment. Public notice to potentially affected persons can include advertising the application in local newspapers and sending courtesy letters to all parties that are identified by AOPA as being potentially affected by the proposed development. This includes neighbours within the directly affected party radius and the local municipality.



Public notice of an application includes:

- applicant information,
- legal land description of the proposed development,
- time and location for public to view the complete application, and
- time frame for the public to submit a Statement of Concern as a potentially directly affected party.

> A COPY OF THE COMPLETED APPLICATION IS AVAILABLE FOR VIEWING.

Completed applications will be available for viewing at the local municipal office where the operation is proposed or at the nearest NRCB office. As well, the public can request that the NRCB send them a copy of the application.

> STATEMENTS OF CONCERN ARE SUBMITTED TO THE NRCB WITHIN 20 WORKING DAYS OF PUBLIC NOTICE

What is a Statement of Concern (SOC)?

A SOC is a written statement that clearly explains and justifies the potential impact that the proposed

A copy of the completed application is available for viewing.

Statements of Concern (SOC) are submitted to the NRCB within 20 working days of public notice

Request for Review may be submitted by those who submitted a Statement of Concern

development will have on a person, organization or other members of the public. As an affected party or a neighbour, you have the right to submit such a statement to the NRCB. Upon receipt of the statement, the approval officer will determine whether the author of the SOC is a directly affected party. SOCs only apply when the application is for an approval or registration.

A SOC includes:

- the name, address and contact numbers of the persons or organizations submitting the statement,
- the legal land description of the submitter's residence, place of business or land ownership,
- the legal land description of the proposed development, and
- a detailed description of how the proposed development would impact the submitter.

The SOC is a public document and is distributed by the NRCB to the applicant and other agencies as required. For example, if reference is made to a health issue, the SOC would be sent to Alberta Health Services for comment.

Once the applicant receives all SOCs, they have the option to respond, by making changes or additions to the application to address the concerns, or to continue with the application as is. Any changes to the application or comments in response to the SOCs are forwarded to the NRCB by the applicant.

Who is a directly affected party?

The Approval Officer determines who is a directly affected party based on AOPA and the reasoning given in the SOC. The applicant and the municipality are automatically given directly affected party status.

The Approval Officer's Decision Summary on the application will provide explanation as to who is a directly affected party for that application.

Parties that submitted an SOC and were denied directly affected party status have the right to request a review of their status from the NRCB Board.

Support to directly affected parties regarding this process is also available through ARD's CFO Extension Specialists.

NRCB APPROVAL OFFICER CONSIDERS THE SUBMISSION AND STATEMENTS OF CONCERNS AND MAKES DECISION ON APPLICATION

The Approval Officer's decision is based on the local municipal development plan, compliance with AOPA, issues that were raised in the SOCs, and feedback from other agencies.

The Approval Officer can either issue a permit or deny the application. Specific conditions can be attached to a permit. An application may be denied if it;

- fails to meet AOPA regulations.
- is inconsistent with the municipality's land-use planning, as set out by the local municipal development plan (MDP).

DECISION IS ISSUED AND ALL PARTIES WHO PROVIDED INPUT ARE INFORMED

Once the Approval Officer makes a decision, a Decision Summary is completed. The Decision Summary is provided to the applicant and all parties who provided input into the application process.

The Decision Summary will provide information on the approval or denial of an application. It also gives explanation to who the directly affected parties are for that application.

If the application is approved, the applicant also receives the appropriate permit and is provided with conditions on construction and ongoing monitoring requirements based on the uniqueness of the site and facilities being developed.

All NRCB decision summaries and permits are posted on the NRCB website.

> REQUEST FOR REVIEW MAY BE SUBMITTED BY THOSE WHO SUBMITTED A STATEMENT OF CONCERN

For those who are deemed a directly affected party, they have the option to request a Board Review of the Approval Officer's decision.

Those who submitted SOCs, but were not deemed a directly affected party by the Approval Officer, also have the option to request the Board to review their directly affected party status and the Approval Officer's decision.

The request for a Board Review of an Approval Officer's decision must be made within 10 working days of receiving a decision. Requests for Review are shared with all directly affected parties. A short time frame to respond to the Requests for Review is also available to all parties.

Forms to request a review are available on the NRCB website or can be obtained by contacting Board Reviews, NRCB, or an ARD CFO Extension Specialist.

BOARD MAY GRANT A REVIEW ON THE APPROVAL OFFICER'S DECISION

The Board considers each request for review and must decide whether the issues raised in the request contain sufficient merit to warrant a review. It can either grant or deny a request for review or may choose to direct mediation to resolve the issues. If the request for review is denied, the approval officer's decision stands. However, if a review is granted, the Board decides whether the review will be in the form of a written or oral hearing. Based on the evidence in the hearing, the Board may confirm, reverse or vary the decision. Board decisions are forwarded to all parties involved in the review and are posted on the NRCB website.

Court of Appeal

Outside of the NRCB process a Board decision can be appealed to the Alberta Court of Appeal based on a question of law or jurisdiction. An application for leave to appeal must be filed and served within 30 days after the Board decision.

The Court will decide what to do with the appeal.

It can either:

- Dismiss the appeal,
- Refer the matter back to the NRCB with direction,
- Quash or overturn the Board's decision, or
- Vary the Board's decision.

For more information on the Application Process:

www.agriculture.alberta.ca/aopa
Agricultural Operation Practices Act and Regulations
AOPA Reference Guide (Agdex # 096-1)
AOPA Environmental Standards for Alberta's Livestock
Industry Brochure

www.nrcb.gov.ab.ca
NRCB Application Process Guide
NRCB Request for Board Review Form

Or Contact (Toll Free 310-0000)

Alberta Agriculture and Rural Development (ARD)
CFO Extension Specialists
Morinville 780-939-1218
Red Deer 403-755-1475
Lethbridge 403-351-5885

Natural Resources Conservation Board (NRCB)

Regional Offices
Lethbridge 403-381-5166
Red Deer 403-340-5241
Morinville 780-939-1212
Fairview 780-835-7111

Board Reviews
Edmonton 780-422-1977