

AOPA APPLICATION PROCESS

STATEMENTS OF CONCERN

One of the purposes of the Agricultural Operation Practices Act (AOPA) is to provide a consistent and transparent application process for permitting confined feeding operations (CFOs) in Alberta. Agdex 096-9 AOPA Application Process provides more detail on this process.

Statements of concern (SOC) can be submitted once the NRCB approval officer has issued a notice of a permit application. Public notice can be an advertisement in a local paper, or a courtesy letter to neighbours.

> THE NRCB ISSUES THREE KINDS OF PERMITS. THE TYPE OF PERMIT DEPENDS ON THE NATURE OF THE ACTIVITY, THE NUMBER OF ANIMALS, ANIMAL SPECIES AND CHANGES IN THE NUMBER OF ANIMALS

1. Registrations are required for the expansion or construction of smaller operations.
2. Approvals are required for the expansion or construction of larger operations.
3. Authorizations are required for manure storage facilities or manure collection areas only.

What is a statement of concern (SOC)?

A statement of concern is a written statement that presents the potential impact that the proposed development will have on a person or organization that is submitting the SOC. Whether or not you receive a courtesy letter, you may submit a statement of concern after the public has been notified. A statement of concern is your opportunity for public input into the NRCB application process.

Within the document you can identify risks, concerns and issues that you have regarding the application. Your letter explains the impact the proposal will have on you and helps establish your directly affected party status. It is important to note that only concerns of directly affected parties will be addressed by the NRCB approval officer in the decision.

Defining a directly affected party

There are four ways you can be eligible for affected party status:

1. You own land or reside within the affected party radius;
2. You are the municipality in which the affected party radius falls;
3. The proposal is within 100 metres of a surface water body, from which you have licensed use, within 10 miles downstream; or,
4. Through the submission of a SOC, you have demonstrated that the effects you will experience are equivalent to those of someone within the affected party radius.

The affected party radius is a distance calculated by the approval officer, based on the size of the proposal.

The NRCB attempts to send courtesy letters to everyone that has been identified by the municipality or Alberta Environment as potentially being a directly affected party. However the official notification is posted in the local paper.

> THREE GOALS OF AN SOC

1. Establishes directly affected party status
2. Represents your concerns about the proposal
3. Identifies possible solutions to your concerns

A statement of concern includes these key pieces of information:

- 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 property affected by the proposed development;
- a detailed description of the concerns regarding the proposed development and possible ways of addressing those concerns;
- information regarding any existing agreements that have been made with the applicant;
- a statement as to whether you want the application denied, approved or approved with certain conditions.

The SOC is a public document. You should not include inflammatory comments or information that you would not want the applicant or the general public to see.

The SOC will be distributed by the NRCB to the applicant and other agencies as required. For example, if reference is made to a health issue, the statement of concern would be sent to Alberta Health Services for comment. The applicant is given an opportunity to respond to the SOC.

Preparing a statement of concern submission?

Several tasks must be completed before you submit your SOC. Be sure to follow these guidelines:

1. Review the application

The notice will indicate where you can view the application. A copy will be available at the nearest NRCB office and maybe available at the local municipal office. The application will have very specific technical information about the proposed construction, site investigation and how the operator proposes to meet AOPA requirements.

You will want to view the application so that you understand what is proposed and how you may be affected.

Once you understand the application, ask yourself the following questions:

- A. Has the operator provided all of the information needed to make the correct decision?
- B. Are there any unknown risks that were missed? For example: Are there springs or old wells that a new owner may not be aware of?
- C. Is there an effect on the local community or economy that you feel needs to be considered?
- D. Do you know anything important to the decision, which the operator may not be aware of?
- E. Is there a change to the proposal that would reduce the effects or make the application more acceptable to you?

Asking these questions will help you clearly identify what your issues are. It may also identify some solutions for the operator to consider.

2. Review all relevant Municipal planning documents

Counties, towns and cities all have planning documents that direct future municipal growth. Regional plans and municipal development plans are planning documents that must be considered by the NRCB. The approval officer is bound by the land use provisions of the municipal development plan and must deny any application which is inconsistent with them.

Sometimes the wording of these documents requires interpretation to define what they mean and where they apply. When this occurs, the approval officer will ask for clarification by the municipality, and the response will be considered in the decision.

In all cases, the approval officer contacts the municipality with a copy of the application and a request for their concerns. In response the municipality indicates whether or not the application is consistent with their planning documents. If not consistent, they will identify which provisions conflict.

Including your questions about municipal provisions in your SOC helps to ensure that they are addressed by both the municipality and the approval officer and that any interpretation is presented in the written decision summary.

3. Research previous decisions

Permits and decision summaries on previous decisions are publicly available on the NRCB website. When writing a statement of concern you can review these documents to see how NRCB approval officers have answered similar questions on previous applications. This will help you clarify the issues that you wish to raise and draft a clear, concise and relevant statement of concern.

4. Ask for help

The applicant may provide you with information regarding the application. They can also explain their reasoning behind choosing the particular option that they did.

Approval officers can help you understand the application and may be able to answer your questions about the process.

Support to affected parties is also available through Alberta Agriculture's CFO extension specialists. A specialist can help you understand the types of issues that are appropriate and relevant for consideration in your SOC.

5. Write your SOC!

It is essential that you submit your concerns in a written letter to the NRCB, only written concerns will be considered in the final decision.

These guidelines help prepare your case for presentation to the approval officer. They also help you to understand the application, the regulations and the types of issues that must be considered when preparing the statement of concern.

During your final review of the statement of concern, be sure to support your arguments with detailed facts, and keep your arguments as clear and concise as possible.

Only a very strong argument and a unique situation will support a request to exceed the provincial standard.

After submitting a statement of concern – what happens next?

The approval officer determines who is a directly affected party to the application.

The approval officer then makes a decision to deny or grant a permit, based on all input provided. This includes the application information on how the operation will meet the regulations, feedback from the municipality and other agencies, and the statements of concern.

A decision summary is then issued by the approval officer. It is then sent to all contributing parties. If a permit is issued, the summary includes any permit conditions.

Can a decision regarding directly affected party status be appealed?

If you submitted a statement of concern and were not granted directly affected status, you can request that the board reconsider your status. You must provide supporting information.

Can a decision regarding a permit decision be appealed?

The applicant and all directly affected parties have the right to request a board review of the decision. The request for review must be submitted in writing within 10 working days from receiving the approval officer's decision, and must list the reasons for requesting a review.

The board is a quasi-judicial body. It considers each request for review and determines if a review is warranted. A written decision is issued to all parties to explain why the board has granted or denied a request for review. If a review is granted, the board will set out the reviewable issues within its decision. All board decisions are posted on the Natural Resources Conservation Board website.

Previous board reviews are also available at www.nrcb.gov.ab.ca, and can provide insight into situations where the board has reconsidered the decision by an Approval Officer.

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