

AOPA COMPLAINT 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 complaint process neighbours can address environmental and nuisance concerns regarding an agricultural operation. As well, through the application process, directly affected neighbours and municipalities have an opportunity to express concerns. This factsheet outlines the complaint 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 complaint process and how neighbours can be involved allows you to take advantage of your rights and opportunities.

The following introduces the Compliant Process:
Steps in blue are one's that neighbors can be directly involved in.

> COMPLAINT IS CALLED INTO NATURAL RESOURCES CONSERVATION BOARD (NRCB) RESPONSE LINE 1-866-383-6722 OR LOCAL NRCB OFFICE

As a complainant, you will be asked to provide information about the location of the operation and details of your complaint. You may provide your contact information but are not required to. If requested, you will be notified of activity on the file. Every effort is made to keep your contact information confidential, however, anonymity cannot be guaranteed.

NRCB INSPECTOR ASSESSES THE SEVERITY AND NATURE OF THE COMPLAINT

An NRCB inspector is assigned to each complaint received. The inspector determines the severity and nature of the complaint by identifying if there are any risks to the environment, inappropriate disturbances or

nuisances to neighbours, or non-compliance. The term "non-compliance" includes being out of compliance with the standards and requirements of AOPA, and being out of compliance with the operator's permit. For example, a permit may have conditions attached to it that require a specific construction deadline, a specific type of manure spreading, or other management practices to be followed.

Nuisance Complaints

If the complaint is about odour, the NRCB inspector investigates the source and appropriateness of the odour. Under AOPA, odour is considered a "nuisance." If the odour nuisance is determined to be inappropriate, the inspector will follow up with the operator to determine how the issue should be addressed. It is often difficult to determine whether an odour nuisance is inappropriate. Odour is affected by many different variables such as weather, time of day, sensitivity of the recipient, etc. The NRCB uses an assessment process to determine whether a particular odour event requires further investigation. For more information, please contact the NRCB.

NRCB INSPECTOR CONTACTS OPERATOR AND DOES A SITE VISIT IF WARRANTED. IF COMPLIANT THEN PROCESS ENDS HERE

The assigned inspector contacts the operator to discuss the complaint. This can be either a phone call or a site visit. If the operation is compliant with AOPA and its permit, no further action is taken. If the inspector determines that the issue is outside NRCB jurisdiction, the complaint is forwarded to the responsible authority. For example, odours from composting are forwarded to Alberta Environment. However, if the operation is found to be in non-compliance with AOPA or with the operation’s permit, the NRCB Inspector determines the appropriate enforcement action and follows up with the operator.

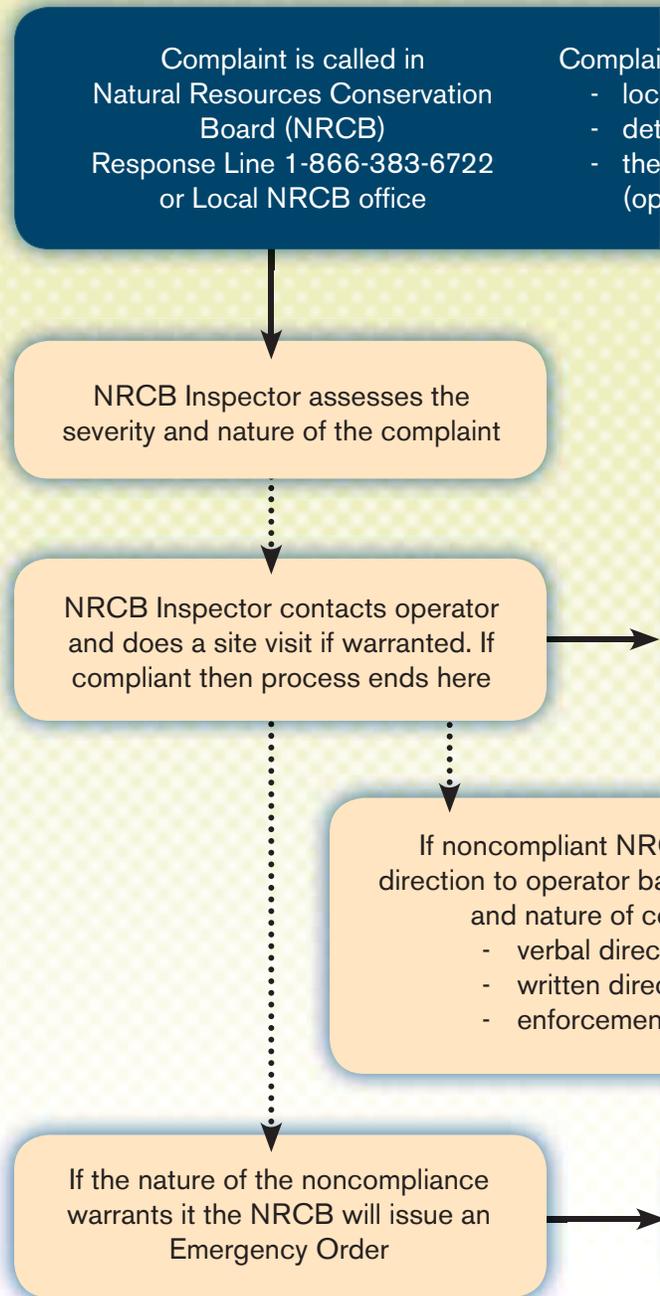
> IF REQUESTED, NRCB WILL CALL BACK TO COMPLAINANT BY THE NEXT BUSINESS DAY

As a complainant, if you have provided your contact information when the complaint was first made and asked to be advised of the outcome of the investigation, the NRCB will contact you to advise you of the action taken and the outcome of the complaint. This will typically occur after the inspector has made the initial contact with the operator and has assessed the situation. You can expect to be contacted by the NRCB about the situation usually by the next business day.

IF NONCOMPLIANT, NRCB PROVIDES DIRECTION TO OPERATOR BASED ON SEVERITY AND NATURE OF COMPLAINT

Education and voluntary compliance are the NRCB’s preferred approaches to achieving compliance in cases where risk and severity of the non-compliance are not considered an emergency. Where warranted, inspectors allow operators some flexibility to achieve voluntary compliance before taking a more formal enforcement action.

Voluntary compliance includes verbal and written directives. “Verbal directives” involve working with operators to identify options and corrective actions that need to be taken. These directives include a timeline for completion. The operation is monitored on a regular basis until compliance is achieved. Once compliance is achieved, the Inspector provides a written verification



Complainant provides details of complaint (including contact information if available)

If requested NRCB will call back to Complainant by the next business day

NRCB provides written summary based on severity of complaint and corrective action order

If requested NRCB will provide ongoing updates to complainant

Written Summary within 30 days of complaint if contact information is provided

of compliance to the operator. The file is closed and the complainant is notified.

A “written directive” is issued if the required action is complex and requires clear direction. A written directive may also be issued if a verbal directive is not fulfilled within the allotted timeframe. Written directives often require the operator to provide a written plan, detailing corrective actions and a proposed timeline for completion. When compliance is achieved, the inspector provides written verification to the operator, closes the file and notifies the complainant.

Operators who fail to comply with a written directive are issued an “enforcement order.” Enforcement orders set out corrective actions that must be taken and a timeline for completion. Failure to comply with an enforcement order will result in the matter being taken to the Court of Queen’s Bench for a Court Order.

Copies of enforcement orders are sent to the municipality in which the agriculture operation is located and are posted on the NRCB’s website.

IF THE NATURE OF THE NONCOMPLIANCE WARRANTS IT, THE NRCB ISSUES AN EMERGENCY ORDER

“Emergency orders” are issued under Section 42.1 of AOPA “when a release of manure, composting material or compost into the environment may occur, is occurring or has occurred and the release is causing or has caused an immediate or significant risk to the environment.”

An emergency order directs the operation to carry out emergency measures that the inspector determines necessary under the circumstances. It typically includes specific actions and timelines that need to be met to address the risk. If the operator does not comply with the emergency order within the prescribed timeline, the NRCB has the authority to take whatever action is necessary to carry out the requirements of the emergency order. Emergency orders are posted on the NRCB’s website. The municipality where the emergency event occurred is also provided with a copy of the emergency order.

> IF REQUESTED NRCB WILL PROVIDE ONGOING UPDATES TO COMPLAINANT

If specifically requested, the inspector will update the complainant on the operator's progress in addressing the issue.

> WRITTEN SUMMARY WITHIN 30 DAYS OF COMPLAINT IF CONTACT INFO IS PROVIDED

Once a complaint has been dealt with, and if the complainant has provided contact information, the NRCB inspector sends a letter to the complainant that summarizes the actions taken.

Farmer's Advocate Office

If a complaint is not resolved through the NRCB process, the complainant has the right to contact the Farmers' Advocate Office to request a Practice Review Committee to assist in resolving the dispute. The Practice Review Committee, which is appointed by the Minister of Agriculture, ensures an open and transparent evaluation of the farm's operation and assesses whether the farm is following generally accepted farming practices. The committee may issue a Generally Accepted Agricultural Practice (GAAP) certificate which can then be used in defense against the nuisance complaint. For information about requesting a Practice Review Committee, please refer to the Farmers' Advocate website.

For more information on the Complaint 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
Farmers Advocate

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
Farmers Advocate 780-427-7956

Natural Resources Conservation Board (NRCB)

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