

**Effective Delivery of the
*Agricultural Operation
Practices Act***

Report of the January 14, 2008
Accountability Session

Natural Resources Conservation Board and
Alberta Agriculture and Food

January 14, 2008

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Background

The *Agricultural Operation Practices Act* (AOPA) applies primarily to the province's approximately 2400 confined feeding operations. Before January 1, 2002, regulation of confined feeding operations was a municipal responsibility. Standards varied throughout the province. AOPA places requirements on manure storage and manure application in order to protect ground and surface water, and minimize odour nuisance.

Mandate of the Natural Resources Conservation Board and Alberta Agriculture and Food

The act and regulations are the responsibility of Agriculture and Food (AF). The operational divisions of the Natural Resources Conservation Board (NRCB) are responsible for delivery of AOPA, including reviewing and issuing decisions on applications, policy development, and enforcement and compliance. The Board of the NRCB is an appeal body under the act for decisions made by approval officers and inspectors, and may set policy as a result of review decisions.

Agriculture and Food also supports delivery of AOPA through research, public literature and three extension specialist positions.

The Chief Executive Officer, NRCB and Assistant Deputy Minister, Environmental and Food Safety, Agriculture and Food, co-chair the Policy Advisory Group (PAG). PAG is a multi-stakeholder body comprised of representatives appointed by the confined feeding industry, municipal and environmental non-government sectors.

Purpose of the accountability session

The requirement for an accountability session is set out in the May 2006 memorandum of understanding (MOU) between the Natural Resources Conservation Board, Agriculture and Food and Sustainable Resource Development.

The session is intended to assess how effectively AOPA is being delivered. The purpose of AOPA is described in the MOU:

“The purpose of the *Agricultural Operation Practices Act* (AOPA) is to ensure that the province's livestock industry can grow to meet the opportunities presented by local and world markets in an environmentally sustainable manner.”

Outcomes and key recommendations

The accountability session was held in conjunction with the January 14, 2008 meeting of the Policy Advisory Group (PAG). It was chaired by Rory Campbell, Deputy Minister, Agriculture and Food, and co-chaired by Brad Pickering, Deputy Minister, Sustainable Resource Development. The PAG members were invited to speak on behalf of their sectors.

PAG is a multi-stakeholder body comprised of representatives appointed by the confined feeding industry, municipal and environmental non-government sectors. Members were invited to speak on behalf of their sectors.

1. Accomplishments

Key accomplishments outlined by members focused on improved relations with the NRCB and Agriculture and Food, and the Policy Advisory Group (PAG) process.

A. Relationship with the Natural Resources Conservation Board

- Members noted that the governance model is working well. The separation of operations and Board functions has provided clarity.
- Members also noted that the NRCB has achieved a level of trust. The relationship is stable and NRCB staff respect the economic situation faced by operators.
- Processes in place for compliance and approvals are seen as solution-driven and on the right track. The delivery of the regulations is seen to be effective and reasonable, and in the context of the AOPA purpose statement.
- PAG noted that policy development in the past 18 months has been significant. It has resulted in greater confidence in NRCB decisions and processes.
- It was noted that some rural municipalities did not initially like AOPA, but that the majority now accept the legislation and the NRCB's role. The NRCB has visited many municipal offices and members noted that its "open door" approach is appreciated.
- The NRCB has participated in numerous livestock producer meetings to answer questions about AOPA or NRCB processes. Members noted that its participation at industry events has been well received.

B. Policy Advisory Group process

- Members stressed that the PAG model is working well. The issues considered at PAG are viewed as significant. Policy development achieved through PAG was cited as "crucial."
- Members voiced a strong consensus that participation in PAG is a positive experience for all stakeholders. Mutually agreed-upon outcomes are being arrived at through frank discussions and collaborative, cooperative processes. The model has generated good will, understanding and a joint commitment to move forward.
- PAG members also noted that the process has proven to be an important education vehicle for all members. The impact of this has gone beyond the participants and is seen as a priority.
- Members emphasized that they value their participation in PAG. There was a strongly voiced and shared feeling that meetings should continue on a regular and ongoing basis.

2. Concerns

Most concerns were in the context of the economic crisis facing the beef and hog sectors. Costs, international competitiveness, the exchange rate between the Canadian and U.S dollar and the cumulative effect of regulatory requirements were cited. Members agreed that regulations must have a clear purpose and allow industry to be competitive. Some members indicated that AOPA is not liked and that producers need “right to farm” legislation. Many concerns were outside the scope of AOPA.

A. Clarification of AOPA regulations required

- Members indicated that they would like further clarification of the sections on grandfathering and minimum distance separation.

B. Environmental protection

- Some members cautioned that despite economic pressures, Albertans generally expect that the environment will be protected.
- PAG members also noted that most producers are good environmental stewards who want to provide safe and high quality products and must have good practices to survive.

C. Concerns outside the scope of AOPA

- The economic crisis is forcing some operators to temporarily suspend their businesses. They face potential loss of their water licence under the *Water Act* if they do not use the licence. This situation is a serious concern to industry.
- The industry could benefit from biogas initiatives to help reduce environmental impact. PAG would like government to be a leader in developing the technology.
- PAG also noted that biogas facility development and the production of electricity require producers to obtain permits and licences from different regulatory authorities. PAG expressed a desire to have fewer agencies involved, and to have legislation reviewed to make it easier for small electricity producers to access the electricity distribution network.
- Concern about the overall cost of regulation was widely expressed by members from all sectors. Consumer costs do not reflect the cost of production.
- Members expressed frustration with multiple regulatory requirements at both the provincial and federal level. The requirements need to be streamlined and synchronized.
- Many PAG members were concerned that over-regulation could affect all of Alberta’s agricultural sectors. Concerns were stated that in the world context our producers may not be sustainable. They require support to survive. The disappearance of one sector will affect all agricultural sectors.
- Members expressed concern that federal regulations related to Kernal Visual Distinguishability (KVD) and Plants with Novel Traits (PNTS) are restricting crop registrations of potential high yield feed varieties. This is seen as an impediment to improving feed cost competitiveness with other jurisdictions.
- Members would like more information about the Land Use Framework, Water for Life and cumulative effects legislation.

Response from government

The NRCB and Agriculture and Food made focused efforts to improve delivery of AOPA in 2006 and 2007. Appendix 3 "Accomplishments" provides a detailed list of initiatives undertaken by both bodies. Most significant, however, is the change in the nature of the relationship between the regulator and the industry.

Relationships that were less than satisfactory in 2005 are now open, solution-oriented and productive. Strong working relationships with stakeholders have clearly been established, and stakeholder satisfaction with the progress made is very evident. The NRCB and AF will continue to build a cohesive and collaborative model of delivery between the two organizations and with stakeholders.

The Policy Advisory Group process itself is a model for effective consultation. Its success to date reflects on the commitment of its members and co-chairs to respectful dialogue, collaboration, education and a focus on finding solutions.

The recommendations of the Policy Advisory Group members are responded to, below.

A. Recommendations within the scope of the Policy Advisory Group

- The definitions of grandfathering and minimum distance separation are on the PAG agenda for 2008 and will be addressed through that process.
- AOPA regulations were revised in October 2006. Sufficient time needs to lapse to properly evaluate the effectiveness of the changes. In the meantime, the effectiveness of the current regulations may be discussed at PAG and recommendations brought forward for a review process which would involve PAG at a later date.
- Input from the Policy Advisory Group will be sought on how to deal with regulatory costs. Agriculture and Food is also in the process of identifying and developing recommendations to address regulatory cost impediments for producers.

B. Recommendations outside the scope of the Policy Advisory Group

- Concerns about the impact of *Water Act* licencing will be forwarded to the Minister of Environment for consideration.
- PAG members will be informed and briefed about government initiatives and legislation of interest to the confined feeding industry on an ongoing basis, as information becomes available. Members are encouraged to participate in consultation processes.
- The Agri-Environmental Partnership of Alberta (AEPA) is a forum for general environmental issues. PAG members are encouraged to communicate with sector representatives who are involved with AEPA.
- A cross-government review of the regulatory processes for licensing and approving bio-gas facilities is already underway. Alberta Environment, Alberta Energy, Alberta Agriculture and Food and the NRCB are involved.
- The Government of Alberta supports bio-gas technology development through the Alberta Research Council and the nine-point bio-energy strategy, which includes provisions for producer credits, commercialization and infrastructure development.

- Agriculture and Food continues to be involved with federal/provincial negotiations in an effort to improve the regulatory framework for licensing and registration of new crop varieties.
- The province will continue to push the federal government for a commitment to assist with long-term sustainability.



Peter Woloshyn
Chief Executive Officer
Natural Resources Conservation Board
Co-chair, Policy Advisory Group

April 4, 2008



John Donner
Assistant Deputy Minister
Environment and Food Safety Sector
Agriculture and Rural Development
Co-chair, Policy Advisory Group

April 4, 2008

Appendix 1

Accountability session, January 14, 2008

List of participants

Guests: Honourable George Groeneveld, Minister, Agriculture and Food
Honourable Ted Morton, Minister, Sustainable Resource Development
Vern Hartwell, Chair, Natural Resources Conservation Board

Chair: Rory Campbell, Deputy Minister, Agriculture and Food

Co-chair: Brad Pickering, Deputy Minister, Sustainable Resource Development

Policy Advisory Group participants:

Agricultural industry:

Beef sector	Rich Smith	General Manager, Alberta Beef Producers
Beef sector	Jeff Warrack*	Regional Director, Alberta Beef Producers
Beef sector	Bryan Walton	General Manager, Alberta Cattle Feeders
ILWG	Rients Palsma	Chair, Intensive Livestock Working Group
ILWG	Carrie Selin*	Environmental Program Coordinator, Intensive Livestock Working Group
Dairy sector	Hennie Bos	Central District Representative, Alberta Milk
Pork sector	Paul Hodgman	Executive Director, Alberta Pork
Pork sector	Stuart McKie*	Policy Specialist, Alberta Pork
Pork sector	Jurgen Preugschas*	Past Chairman, Alberta Pork
	Herman Simons**	Chairman, Alberta Pork
Poultry sector	Sylvia Donkersgoed	Chair, Alberta Chicken Producers
Poultry sector	Mike Hart	Regional Director, Alberta Egg Producers
Poultry sector	Doris Ludlage*	Director, Alberta Hatching Egg Producers

Municipal:

Rural	Don Johnson	President, AAMD&C
Rural	John Whaley**	Director, AAMD&C
Urban	Darren Aldous**	Vice President, AUMA

Environmental non-government:

Cindy Chiasson	Executive Director, Environmental Law Centre
Dean Watt*	Staff counsel, Environmental Law Centre
Ann Baran	Representative, Alberta Environmental Network

*alternate

**new member appointed by the sector effective 2008

Appendix 2

Accountability session, January 14, 2008

Observers:

Policy Advisory Group co-chairs

Peter Woloshyn, Chief Executive Officer, Natural Resources Conservation Board (NRCB)

John Donner, Assistant Deputy Minister, Environment and Food Safety, Agriculture and Food

Policy Advisory Group government and NRCB Board members

Jim Turner, Board member, NRCB

Carol Bettac, Director, Technical Services Division, Agriculture and Food

Keith Leggat, Director, Environmental Policy Branch, Alberta Environment

NRCB and AF technical support to Policy Advisory Group

Walter Ceroici, Director, Science and Technology, NRCB

Andy Cumming, Director, Applications, NRCB

Wayne Inkpen, Project Manager, Agriculture and Food

Jim McKinley, Director, Compliance and Enforcement, NRCB

Jean Olynyk, Director, Communications, NRCB

Kurt Stillwell, Counsel, NRCB

Nancy Stitsen, Executive Assistant to the Chief Executive Officer, NRCB

Appendix 3

Accomplishments

Changes to AOPA delivery

1. A memorandum of understanding between Agriculture and Food, Sustainable Resource Development and the NRCB was signed in May 2006. The memorandum of understanding set out a purpose statement for the *Agricultural Operation Practices Act*, a clear commitment to consultation, communication and relationship building, and a commitment to clear policy development. The memorandum of understanding also clarified roles and responsibilities with respect to the act.
2. Board review functions and the operational functions of approvals and compliance were separated through structural changes to the NRCB. This process was completed in spring 2006.
3. Three Agriculture and Food extension specialist positions were created and recruited to in 2006 and 2007. The extension specialists are located in Lethbridge, Red Deer and Morinville.
4. A complete review and revision of NRCB application forms, information and public notifications, including courtesy letters, notices and information sheets was completed in spring 2007. Changes introduced plain language and reflected the October 2006 updates to AOPA regulations. The Policy Advisory Group was consulted.
5. Agriculture and Food led an update of AOPA reference guides to reflect the October 2006 changes to the *Agricultural Operation Practices Act* regulations. Agriculture and Food consulted with the NRCB, industry and AAMD&C.
 - Manure Management Record Keeping Regulations (March 2007)
 - Manure Management Regulations for Cow/Calf Producers (March 2007)
 - Manure Spreading Regulations (May 2007)
 - Municipalities and the Agricultural Operation Practices Act (March 2007)
 - Permits and Regulations for Existing Operations (May 2007)
 - Wintering Sites and Livestock Corrals (May 2007)

Regulatory changes

In 2006, Agriculture and Food consulted with the confined feeding industry and other stakeholders to identify needed changes to the *Agricultural Operation Practices Act* regulations. The changes became effective in October 2006. The consultation was initiated in response to a request from industry in spring 2006. Key changes included:

- a clearly defined definition for ancillary structures
- clarification of when manure can be stored short-term
- a clear definition of how the minimum distance separation is measured between a feeding operation and adjacent properties will be calculated
- clarification on what type of protective layer or liner is acceptable for manure storage, and
- reinstating specific timelines on how quickly manure and compost materials must be incorporated into the cultivated land after spreading.

Policy

The Policy Advisory Group (PAG) was established in November 2006. PAG is co-chaired by the NRCB and Agriculture and Food. Policy outcomes include:

1. Review and adoption of the risk management framework
2. Completion of the NRCB approval policy, including the following components:
 - Guiding principles (communication, consistency, service, acceptable risk)
 - Grandfathered operations
 - Discretion and variance
 - Application process
 - Notification (minor amendments)
 - Approval officer and administrative amendments
 - Application timelines
 - Technical review
 - Application deficiencies
 - Applicant commitments that exceed AOPA requirements
 - Decisions
 - Permits and conditions
 - Appropriate use of land and effect on the economy, community and environment
3. Review of the NRCB mediation policy

Progress in assessment of environmental risk

1. Agriculture and Food and the NRCB commissioned Dr. Jim Hendry of the University of Saskatchewan to conduct a literature review of existing research into the potential risk to groundwater of Alberta's confined feeding operations. Dr. Hendry's research was completed in 2007. His study concluded that the risk of contamination in Alberta is low.
2. A risk screening tool was designed in 2007/08 by a working group comprised of NRCB, Agriculture and Food, Alberta Environment and industry experts. The tool will be tested in early 2008. It will initially be used to determine the validity of existing permit conditions requiring groundwater monitoring by confined feeding operations. The tool will be refined through testing and the Policy Advisory Group will be consulted on its use.
3. Recommendations in the Auditor General's 2006-07 report were responded to in 2007 through development of the risk screening tool and planning for an integrated data base. Implementation of the tool and further planning will proceed in 2008 in consultation with the Policy Advisory Group. The NRCB has always assessed environmental risk as part of its review of applications and its response to complaints. Adopting the principle of the Auditor General's recommendation for a risk-based process will formalize but not substantially change NRCB procedures. The result will be enhanced consistency, greater transparency and improved documentation. It will not affect how grandfathered operations are dealt with under the *Agricultural Operation Practices Act*.

Stakeholder relations

The NRCB focused on building open relationships and strong communication with its stakeholders by meeting with municipal councils – often accompanied by Agriculture and Food extension specialists, participating in industry and other stakeholder meetings, and touring a number of Alberta's facilities. One-on-one communication, commitment to dialogue and an open-door policy are the foundation of NRCB relations with its stakeholder groups. This approach will be further expanded in 2008.

1. Meetings with municipal districts and counties
 - Athabasca County
 - Barrhead County
 - Camrose County
 - Kneehill County
 - Lacombe County
 - Leduc County
 - Newell County
 - Parkland County
 - Ponoka County
 - Rockyview MD
 - Vulcan County

2. Stakeholder member meetings
 - AAMD&C Fall and Spring Conventions
 - Action for Agriculture
 - Ag Service Board (Barrhead)
 - Ag. Service Board Provincial Conference (Edson)
 - Ag-Expo
 - Alberta Beef Annual General Meeting
 - Alberta Beef Industry Conference
 - Alberta Chicken Producers Regional Meetings (Lethbridge, Olds)
 - Alberta Development Officers Association
 - Alberta Milk Annual General Meeting
 - Alberta Pork Annual General Meeting
 - Alberta Pork Regional Meetings (Grande Prairie, Lethbridge, Red Deer, Vermilion, Westlock)
 - Alberta Poultry Industry Trade Show and AGM

- American Association of Bovine Practitioners Conference
 - Banff Pork Seminar
 - Bow River Water Council
 - Canadian Bar Association Conference
 - Capturing Feed Drain & Forage Opportunities Conference
 - Growing Alberta
 - Manure Management Conference
 - National Cattlemen's Beef Association Conference
 - North Saskatchewan River Alliance
 - Pacific Northwest Economic Development Council Conference
 - Peace Country Beef Congress
 - Red Deer River Watershed Alliance General Meeting
 - Smoky River Agricultural Trade Show
 - Symposium on Bio-Energy
 - Tri-Provincial Manure Management Conference
3. Other meetings
- Environmental Law Centre – presentation to a joint NRCB approval officer/inspector meeting
 - Joint meetings with approval officers, inspectors and Agriculture and Food extension specialists
4. Tours of confined feeding facilities
- Bentley Colony
 - Jaap Dominicus
 - Fairview Dairy
 - Kasko Feedlot
 - McCains
 - Shady Lane Colony
 - Sunrise Poultry
 - Twin Rivers Colony
 - Van Aiken

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Copies of the *Agricultural Operation Practices Act* can be obtained from the Queen's Printer at www.qp.gov.ab.ca or through the NRCB or Agriculture and Food websites.

March 12, 2008