

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

Report of the January 28, 2014
Accountability Session

Natural Resources Conservation Board and
Alberta Agriculture and Rural Development

March 31, 2014



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Background

The *Agricultural Operation Practices Act* (AOPA) was proclaimed in 2002 to set out provincial standards for manure management and the siting of confined feeding operation facilities. The act 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. In addition to providing consistent province-wide standards for licensing and siting confined feeding operations, AOPA provides a formal appeal process and opportunity for directly affected parties to participate in the regulatory process. The act also requires permit decisions to uphold municipal land use provisions, addresses nuisance impacts such as dust and odour, and sets out minimum environmental standards for manure storage and manure application. The act grandfathers all pre-2002 confined feeding operations, including those without municipal permits, but requires grandfathered operations to address environmental risks and to apply for an AOPA permit for all new construction and expansion of existing facilities.

The purpose of AOPA is established by a June 2006 memorandum of understanding between Environment and Sustainable Resource Development (ESRD), the Natural Resources Conservation Board (NRCB), and Agriculture and Rural Development (ARD):

"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."

Responsibilities of the Natural Resources Conservation Board and Alberta Agriculture and Rural Development

AOPA delegates provincial responsibility for its delivery to the Natural Resources Conservation Board. The operational divisions of the NRCB are responsible for reviewing and issuing decisions on applications, enforcement and compliance, and for operational policy development in support of the delivery of AOPA. The Board of the NRCB is an appeal body under the act for decisions made by approval officers and inspectors.

The act and regulations are the responsibility of Agriculture and Rural Development, which supports delivery of AOPA through research, public literature and services provided by three extension specialists. In addition, ARD consults with AOPA stakeholders on the overarching policy framework of AOPA and on maintenance of the act.

The Chief Executive Officer, NRCB and Assistant Deputy Minister, Policy and Environment Sector, ARD, co-chair the Policy Advisory Group (PAG), established in 2006 under the joint memorandum of understanding. The co-chair function for ARD is currently delegated to the Executive Director, Environmental Stewardship. The Policy Advisory Group is a multi-stakeholder body comprised of representatives appointed by the confined feeding industry and municipal and environmental non-government sectors to provide advice on important policy and regulatory issues.

A Technical Advisory Group was also established under the memorandum of understanding to develop technical guidelines to help NRCB staff and producers interpret and consistently apply AOPA. The Technical Advisory Group is co-chaired by ARD and the NRCB and includes two representatives from the confined feeding industry. The guidelines are written in consultation with technical experts.

Purpose of the accountability session

The requirement for an accountability session is set out in the May 2006 memorandum of understanding. Accountability sessions are intended to assess how effectively AOPA is being delivered.

The first two accountability sessions were held in 2008 and 2010. The reports from both sessions are available on the NRCB website.

2014 accountability session

The 2014 accountability session was held on January 28 in Edmonton, in conjunction with a meeting of the Policy Advisory Group.

Participants included Robin Campbell, Minister, ESRD; Verlyn Olson, Minister, ARD; Bill Werry, Deputy Minister, ESRD; Dave Burdek, Assistant Deputy Minister, ARD; Vern Hartwell, Chair, NRCB; NRCB Board members Jay Nagendran, Jim Turner and Donna Tingley; 17 members of the Policy Advisory Group; observers; and NRCB and ARD staff. Policy Advisory Group members represent Alberta's four major livestock sectors (beef, dairy, pork and poultry), the Intensive Livestock Working Group, municipalities and the non-government environmental sector. Members also include an ESRD representative and a Board member of the NRCB. The complete list of participants is provided in Appendix 1.

The session was co-chaired by Bill Werry, Deputy Minister, ESRD, and Dave Burdek, Assistant Deputy Minister, ARD on behalf of Jason Krips, Deputy Minister, ARD. Policy Advisory Group members representing the industry, municipal and non-government environmental sectors provided written submissions in advance of the session and were invited to speak on behalf of their sectors.

Opening remarks

Robin Campbell, Minister, Environment and Sustainable Resource Development opened the session. He indicated that he looked forward to the discussion and to hearing stakeholder perspectives on the delivery of the *Agricultural Operation Practices Act*. He noted the importance of clear and fair policy and processes to guide regulation. He emphasized that the Government of Alberta is responsible for the province's land and resources and that the advice of bodies like the Policy Advisory Group is useful and relevant for government. Minister Campbell commended Policy Advisory Group members for providing positive and constructive feedback through its processes and their written submissions for the accountability session. Minister Campbell also commented on the importance of the regional plans being developed under the Land-use Framework. He noted that the plans will have an effect on agriculture, and encouraged Policy Advisory Group members to participate in finding collaborative solutions.

Verlyn Olson, Minister, Agriculture and Rural Development emphasized that agriculture is integral to Alberta's economy and to its international markets and business opportunities. He also acknowledged, however, that while agriculture is very much at the heart of the identity of Albertans, it is now a highly complex and science-based industry. These changes, and the social licence demands of urban and international markets, are creating new stresses for agriculture. Minister Olson explained that only about 20 per cent of Albertans now live in rural areas; while every one likes to eat, most Albertans are now at least one generation away from their rural roots. Managing expectations and anticipating and responding to conflicts between rural and urban areas will become increasingly important. Minister Olson expressed his support for the agricultural industry, and emphasized the need to make sure that industry and government are looking ahead and keeping a close eye on social licence expectations.

Minister Olson also commented on the value of the Policy Advisory Group. It has its eye on the landscape and its work has been greatly helpful for delivery of the act. Minister Olson acknowledged the overlap of many issues that his ministry and ESRD are dealing with, and the value of both ministers meeting together with the Policy Advisory Group.

Vern Hartwell, Chair, NRCB stated that while the NRCB reports directly to ESRD, it has very strong ties to ARD through its regulatory mandate under AOPA. Vern noted his appreciation for the value of accountability sessions and the Policy Advisory Group. While the NRCB is doing a good job of delivering the act, its goal is to continue improving. Accountability sessions and the Policy Advisory Group process provide valuable input by bringing the perspectives of the agricultural, municipal and environment sectors to the table. Vern Hartwell thanked ministers Campbell and Olson for participating in the session, and stated that having both ministers and all three sectors involved in the discussion presented a huge advantage for identifying issues and moving forward on solutions.

Peter Woloshyn, Chief Executive Officer, NRCB acknowledged the positive dialogue and respectful relationships between the NRCB, ARD, ESRD and Policy Advisory Group members. The Policy Advisory Group provides valuable advice, which has helped the NRCB design and deliver effective operational policies and programs such as the use of objective, science-based assessments for approval and compliance functions and a risk-based approach to groundwater monitoring requirements. The NRCB is especially proud of the work completed on the leak detection program, which was recognized in 2011 with a Premier's Gold Award of Excellence and an Excellence Canada Award of Merit. The program used science-based assessments to determine risk to groundwater at 350 facilities that have groundwater monitoring requirements in their AOPA permits. As a result of the program, the permit conditions were reviewed and revised to reflect the actual environmental risk of the facilities. The NRCB was able to suspend monitoring requirements for 80 per cent of the 350 facilities, resulting in cost savings for operators and an effective use of NRCB resources.

Peter also commented on the recent joint agreement between the NRCB and ESRD for regulation of Lethbridge Biogas, noting that the approach was discussed with the Policy Advisory Group and may be applied to other biogas facilities as they come into production. Finally, Peter acknowledged the NRCB's professional, highly competent staff and the positive working relationship between the NRCB, ARD and ESRD. Accomplishments achieved with the benefit of advice from the Policy Advisory Group are listed in Appendix 2.

Summary of Policy Advisory Group member submissions and presentations

Policy Advisory Group members provided written submissions in advance of the accountability session and then spoke to these presentations at the session. Members commented that the Policy Advisory Group continues to be a useful forum for dialogue and policy development. Significant progress has been made on several fronts, but challenges remain in some areas:

Successes

- Policy development is making good progress
- Improved consistency and timeliness of decisions
- Science-based decisions and risk based approach support industry
- Industry satisfied with de-linking AOPA and *Water Act* applications, and use of an operator-signed declaration
- Credible approval and compliance programs
- Effective consultation and collaboration
- Technical guidelines

Challenges

- Some remaining inconsistency of decisions
- Concern that Auditor General recommendations may expand the NRCB mandate under AOPA
- Need for further policy development
- Municipalities not satisfied with de-linking AOPA and *Water Act* applications, and use of the operator-signed declaration
- Environmental sector seeking some broadening of AOPA
- Climate change and biosecurity issues

The following highlights are from both the written and oral presentations. The italicized quotes are direct excerpts from member submissions. A number of the issues were further discussed at the scheduled Policy Advisory Group meeting that followed the accountability session, on January 28 and 29.

A. Consistency

- The environmental risk screening tool is providing consistent and objective evaluations of risk. Members indicate that the NRCB's leak detection and risk based compliance programs are

objective, practical and of value for the industry. The NRCB's approach to consulting and working with producers to address environmental risks is positive and effective.

"NRCB's risk based compliance program offers an objective and practical approach to solutions for the industry. The NRCB's environmental risk screening tool (ERST) has provided value to the industry, as evidenced by the success of the recent Leak Detection Program."

Alberta Chicken Producers

- The consistency and clarity of the approval process has improved, although industry members note that some inconsistencies remain.

"Predictability of approval process for applicants has been improved." AAMDC

"...still hear about inconsistency among NRCB staff in their interpretation and administration of AOPA ... can leave operators feeling a need to go beyond AOPA in order to satisfy the NRCB staff or facing overly costly and onerous requirements to prove that an application meets AOPA." Alberta Beef Producers

B. Results for industry

- Most members feel that AOPA is working well and that regulation by the NRCB under AOPA has been good for the industry. AOPA and the NRCB are providing a sound and rational basis for decisions on permits and the purpose of AOPA is being upheld. Members also note that decisions are timely and working with the NRCB is easy if operators are open with them. One industry member states that the lack of growth in some sectors has been the result of market conditions, not of regulation.

"NRCB's delivery of AOPA has been effective and meets expectations of producer applicants."
Alberta Milk

"Overall, the regulation of CFOs by the NRCB under AOPA has been good for the industry in Alberta. We can use this system to demonstrate our commitment to environmental protection and social responsibility." Alberta Beef Producers

"NRCB has been able to effectively deliver on the AOPA purpose statement." Alberta Milk

- There is support for being proactive with environmental issues and for the NRCB's science-base for decisions.

"The new built-in Alberta, science-based Leak Detection Program and the Environmental Risk Screening Tool will help to ensure consistent and objective evaluations of CFO sites."

Alberta Milk

"The use of a science-based approach is essential when it comes to the protection of the environment." Alberta Environmental Network

"The robust approval and compliance processes generally provide a high level of comfort to the public about the degree to which AOPA protects the environment and public interest."

Alberta Beef Producers

C. Policy development

- Members comment on good progress on NRCB policies and procedures.

"Since the last accountability session, considerable work has been done to develop new policies and to further clarify those policies already in place." Alberta Environmental Network

- One industry member notes the need for a finalized policy on abandonment that includes a clear definition, public notice and a board appeal process.

"Refinement of the Abandonment Policy through: clearly defining abandonment, requirement for a tribunal or board to hear reviews, issuance of public notices when a permit has been abandoned." Alberta Chicken Producers

- For municipalities, the lack of setbacks under AOPA for manure storage from public gathering places and roadway intersections is an ongoing concern.
"A review of setback distances for short term manure storage from residences is needed to take into account public roadways and gatherings." AAMDC
- The amendment of municipal conditions that exceed AOPA requirements remains a concern for industry and municipalities. Industry is concerned that the costs to operators to provide sufficient justification to remove or amend conditions may be prohibitive, whereas municipalities wish to ensure that the reason for the condition is respected. Industry also notes that new confined feeding operations must meet current AOPA standards, however, some pre-2002 operations have municipal conditions that may be more stringent than AOPA.
"The burden of proof for removing conditions is placed on the permit holder and in many cases the cost and time of doing so stymies them proceeding." ILWG
"There is concern regarding industry desire to alter or remove municipal conditions on approvals issued pre-2002." AAMDC
- The pork industry is concerned about flexibility for manure application, as both climate change and a lack of custom manure hauling operators have made scheduling manure application increasingly challenging.

D. De-linking AOPA permits and Water Act licences

- Industry members are satisfied with the requirement for operators to sign a declaration indicating their responsibility for obtaining appropriate licences under the *Water Act*, while allowing them to choose whether to link or de-link their AOPA and *Water Act* applications.
"Specific accomplishments: The option for producers to de-link the permit application process for AOPA and Water Act permits." Alberta Milk
- Municipalities continue to disagree with de-linking; they would prefer mandatory linking of AOPA and *Water Act* applications to ensure that construction does not proceed until licences are in place.
"... the water licence and AOPA permit process approval should be linked." AAMDC

E. Consultation and collaboration

- Members appreciate the effort made by the NRCB and ARD to communicate with their associations and to consult with them.
"NRCB has provided continuous positive stakeholder engagement and consultation." Alberta Pork
"Opportunities through PAG to comment on regulation and to also inform policy." Alberta Environmental Network
- ILWG notes that the joint ARD/industry/NRCB initiative under the Clean Air Strategic Alliance (CASA) successfully developed an odour assessment tool that is now used by industry, and analyzed the NRCB's 2002-2010 odour complaint data. The analysis concluded that odour concerns are relatively focused and are not a widespread industry issue. Industry has established a long-term pilot project in the sub-basin to try to identify the highest risks for point source and non-point source emissions, and to identify changes to mitigate the risk.
"Significant contributions were made by the NRCB and ARD to complete the analysis of NRCB's odour complaint data (2002-2010) in order to identify areas where odour from CFOs could be considered a significant problem." Alberta Pork
"Significant contributions were made by the NRCB and ARD to complete the project." ILWG

F. Technical guideline development

- Clarification of technical issues in AOPA through the Technical Advisory Group (TAG) guidelines has proven useful for improving consistency.

"The TAG continues to strive to address current technical industry challenges with the goal of generating clear and concise guidelines." Alberta Milk

G. Fears and perceptions about regulation

- Some operators appear to believe that meeting AOPA standards is insufficient for a permit and that submitting an AOPA application is too costly and difficult. As a result, they may look for ways to avoid being classified as a CFO.

"When I hear about the extreme measures that some producers will take to avoid being classified as a CFO and coming under AOPA regulations, it makes me concerned that acquiring an approval may be seen as being too costly and difficult for a producer." Alberta Beef Producers

- Industry indicates the need to enhance stakeholder awareness of ARD's extension services for confined feeding operations, to support their knowledge and understanding of NRCB approval and compliance processes.

H. Role of the Auditor General

- Industry generally supports the NRCB's documentation of surface water observations at confined feeding operations (CFOs). However, several members are concerned about the Auditor General's role and the impact of the Auditor General's recommendations on NRCB policy and programs.

"There is a definite, ongoing influence from the Auditor General towards the NRCB mandate and activities (e.g. groundwater and surface water monitoring). This direct influence and its potential to expand the NRCB mandate requires further dialogue." Alberta Milk

"The Auditor General has indicated the NRCB has a risk compliance gap in not having a surface water assess plan. Hopefully this will be resolved with development of a site information form on surface water that NRCB field staff will complete from observations..." Alberta Pork

I. AOPA review

- Members indicate overall satisfaction with AOPA but also offer some suggestions. The environmental non-government members indicate concern about the delay of the scheduled review of the legislation.

"We believe that AOPA is working well." Alberta Cattle Feeders Association

"The AOPA and its regulations continue to provide a sound and rational foundation supporting regulatory decisions on approvals and compliance for CFOs in Alberta." Alberta Beef Producers

"I thought the 2014 review of AOPA was to be a very positive one, having an open and transparent discussion about CFOs would add to the sustainability of the industry. More voices would add strength to the decisions formed at the table." Alberta Environmental Network

- Some industry members comment that the definition of grandfathering in the legislation would benefit from clarification and that a process for determining the status of grandfathered operations needs to be clearly articulated.

“Clarifying the definition of grandfathered operations for unambiguous interpretation and continuing the development of a policy regarding grandfathering determinations under AOPA.”
Alberta Chicken Producers

“Alberta Milk is looking forward to further discussion and resolution of several 2014 policy issues including ... a new policy to guide determination of grandfathered status—this is an important issue for industry and broader society.” Alberta Milk

- Manure land spreading agreements with landowners are identified at the application stage but there is no requirement for the NRCB to be informed if the agreements are changed.
“The process of identifying manure spreading land agreements with other landowners at the application stage without further consideration that those agreements are kept in place.”
AAMDC
- The environmental non-government sector represented by the Alberta Environmental Network suggests expanding the scope of AOPA to address riparian lands and wetlands, air quality and a broader definition of confined feeding operations. This sector raised a number of additional concerns and suggestions:
 - AOPA lacks sufficient penalties for non-compliance. Issues related to inappropriate disturbance and repeated failure to comply with manure application requirements are provided as examples.
 - The complaint process is reactive rather than proactive, and potentially pits neighbours against each other instead of focusing on the issue itself.
 - AOPA does not address the potential broader impact that intensive livestock operations may have on the environment, for example, concentrations of particulate matter, or non-point source emissions.
 - Custom manure haulers should be required to belong to an association with responsibility for education and standards, to ensure they are familiar with and comply with the regulations.

J. Other topics

- Some members express concern about water allocations for producers. Sustainable access to water for agriculture is essential.
- The implications of regional land-use plans and thresholds on AOPA permitting are unknown and of concern to industry.
- Climate change is affecting how operators do business. For example, limited availability of custom manure applicators and climatic impacts on their ability to spread manure in a timely way may create public issues such as odour.

Open forum with Ministers and Deputy Ministers

Ministers Campbell and Olson invited members to clarify their concerns about the impact of the Auditor General's recommendations on regulation under AOPA. They also invited discussion of any other topic related to the agricultural sector.

- Auditor General's recommendations—Peter Woloshyn was asked to explain how the NRCB has responded to the recommendations. Peter indicated that the NRCB has good knowledge and understanding of surface water conditions at CFOs. However, field staff were not documenting their observations sufficiently to provide a written record of the extent of surface water risks. The NRCB has therefore developed a surface water implementation plan that outlines when staff should document surface water conditions at CFOs and how the NRCB will use the data to inform its compliance program. The NRCB has been clear that a compliance program for surface water risks will be implemented only if warranted, as demonstrated by documented field observations. All NRCB policies and programs are developed to be consistent with the purpose statement of AOPA. The Auditor

General will conduct a final systems audit to evaluate the effectiveness of the NRCB's surface water data collection and analysis.

- Data collection—PAG members asked for more information about surface water data collection, including whether it would indicate if the site was grandfathered. Peter Woloshyn indicated that the NRCB has conducted more than 4000 site visits since 2002, but did not have a consistent way of documenting surface water conditions. The new protocols for surface water data collection will consistently capture that information as well as the permit status of the operation and will allow for robust data analysis.
- Identification of non-permitted operations—a discussion of non-permitted operations addressed concerns about the NRCB's reliance on complainants to identify issues with CFOs. One member indicated that, in his experience, the complaint based approach can pit neighbours against neighbours. The NRCB indicated that regulators commonly use complaint based systems because they are an effective supplement to the resources of the regulator. Most members agreed that if an individual is aware of an un-permitted CFO, the NRCB should be notified so it can follow up.
- Disease prevention—transmitting disease as a result of a lack of truck washing facilities at provincial and international border crossings was raised as a potentially serious issue in light of the outbreak of the fatal Porcine Epidemic Diarrhea (PED) disease in the United States and the recent case found in Ontario. Many truck washes use recycled wash water and consequently disinfectant rates are not 100 per cent. Access to proper truck wash facilities closer to the borders would help protect Alberta's hog industry.

Ministers Campbell and Olson indicated that the provincial government has been working with industry on the PED issue and expressed an interest in further discussing industry's suggestions.

- Province-wide standards for location of short term solid manure storage piles—short term solid manure storage is an issue for municipalities when the manure is placed on land close to intersections or near public gathering places. Industry members agreed that piling manure close to public places creates an inappropriate disturbance and damages the public profile of the industry. While it was agreed that storing manure near intersections can also pose a safety issue, industry felt that issues involving roadways should be addressed by Alberta Transportation or the municipality. AAMDC cautioned that industry may prefer to have a uniform provincial standard, rather than inconsistent requirements between municipal districts.
- *Municipal Government Act* revisions—members inquired whether upcoming revisions to the *Municipal Government Act* will have an impact on agriculture. Minister Campbell indicated that once the consultation process is in place, he would be willing to discuss the potential impact with the Minister of Municipal Affairs. Minister Campbell also recommended that PAG invite the Minister of Municipal Affairs to meet with them to discuss the act and the concerns of agriculture. Dave Burdek and several PAG members also recommended participating in the public consultation.
- Regional land-use plans—the impact of the proposed regional plans on agriculture is unclear. One industry member indicated that Alberta has the best regulatory processes in Canada and good cooperation between ministries, but with respect to the regional plans, agriculture needs some predictability. Members indicated that they do not feel confident or informed about how the regional plans will work and how the livestock sector may be affected. The PAG ESRD representative suggested that more information and discussion of the regional plans at PAG appears to be needed.

Co-chairs Bill Werry and Dave Burdek thanked the Policy Advisory Group members for the informative discussion.

Conclusion of accountability session

Vern Hartwell, Chair, NRCB expressed his appreciation for the Policy Advisory Group, noting that the advisory body provides significant assistance to addressing the issues and challenges of delivering AOPA. He added that the NRCB will continue to work hard to deliver its mandates under the act, and that the Board of the NRCB looks forward to seeing how the various challenges discussed at the accountability session unfold.

Minister Olson thanked the members for the information and discussion. He committed to follow up on the issues raised at the session with his staff at Agriculture and Rural Development. He also expressed his appreciation for the valuable work achieved with the input and advice of the Policy Advisory Group, and stated that he looks forward to seeing a proactive approach for addressing the issues discussed at the session.

Minister Campbell stressed that the Policy Advisory Group is a forum that works. He emphasized the importance of taking the time to listen to and discuss the challenges. As the second biggest industry in Alberta, he encouraged PAG members to never underestimate the importance of agriculture. Government recognizes its importance, and the need to find balance between the environment and the agricultural industry.

Minister Campbell also stressed that the Government of Alberta is the service provider, and the agricultural industry is its client. He recognized that agriculture has some trepidation about the potential impact of the South Saskatchewan Regional Plan. At the same time, he emphasized that developing regional land-use plans is essential. Urban sprawl, as one example, is a serious issue that will continue to grow and must be addressed. The ministries are coordinating to ensure that the policy doesn't have unintended consequences.

Co-chairs Bill Werry and Dave Burdek thanked the members for the excellent meeting. They indicated that a report of the session will be provided to them and posted on the NRCB website.

The meeting was concluded at 10 a.m., January 28, 2014. The January 28-29, 2014 meeting of the Policy Advisory Group convened at 10:30 am, to further address items brought forward at the accountability session.

Follow up discussion—January 28-29, 2014 meeting of the Policy Advisory Group

A number of the issues discussed at the January 28, 2014 accountability session were brought forward in the debriefing with the Policy Advisory Group on January 29 and as part of previously scheduled agenda items. A summary of these discussions and outcomes follow:

- Some operators may be avoiding the permitting process:
 - Some members raised a concern that NRCB processes may be a possible deterrent for some operators to apply for a permit. More emphasis on education and awareness for operators may help address operator perceptions that getting a permit is onerous. The standards are reasonable but some operators who do not have regular contact with the NRCB may not understand the process or the supports that are available through the NRCB and through ARD extension services.
OUTCOME: Members stated that in their experience, NRCB staff are helpful and informative, and suggested that the NRCB more proactively communicate success stories via testimonials and ambassadors.
- Operational policy for amending municipal conditions:
 - The Policy Advisory Group was provided with a presentation on the legislative requirement for the NRCB to uphold municipal conditions, unless the conditions are amended in accordance with AOPA. Industry's concern that the onus is on the operator to justify removing municipal conditions was acknowledged, and the NRCB noted that it is mindful of these concerns. The draft operational policy requires applicants for permit amendments to demonstrate why their application should be granted, but also provides considerable leeway for circumstances where the justification is clear or where the reason for the municipal condition resides solely with the municipality or other party. The draft policy also clarifies that a municipality or other directly affected party has the burden of proving any assertions they make in opposition to the application.

- Considerable discussion resulted in improved understanding of the legislative requirements and the need for the operational policy presented by the NRCB.
OUTCOME: General consensus was reached that the NRCB's proposed policy needs to be implemented and evaluated over time.
- Industry concern about instances of inconsistent delivery of approval and compliance decisions:
 - Members discussed the concern that in some instances, approval and compliance decisions are not being consistently delivered across the province. Industry members indicated that the issue does not appear to be widespread. They also indicated that the discretion afforded to the NRCB by the act is important to address unique circumstances that are encountered on a file by file basis.
 - The NRCB acknowledged that there may still be inconsistencies. They are being addressed through ongoing staff training and mandatory peer review of decisions before they are issued.
 - The NRCB indicated that the 2012 Ipsos Reid survey asked operators about their satisfaction with the approval process. More than 97 per cent of respondents felt they were treated fairly and respectfully by approval officers and their questions about the application process and the regulations were answered. Respondents also indicated that a faster application process and more information about application requirements were desired. In 2013 the NRCB improved its application forms and decision documents, and launched a new web site to facilitate access to information.
OUTCOME: Members recommended that confined feeding operators should contact the NRCB if they have questions. The NRCB will also consider including questions on the next Ipsos Reid survey regarding the cost and complexity of the application process.
- Impact of the Auditor General's recommendations on NRCB activities:
 - A presentation was shared with Policy Advisory Group members that summarized the NRCB's response to the Auditor General's recommendations. The Auditor General's mandate is to recommend business processes and efficiencies to the Government of Alberta. The NRCB is striving to respond to the business process recommendations while continuing to adhere to the AOPA purpose statement.
 - The Auditor General is satisfied that an appropriate risk based approach is in place for managing potential risks to groundwater. Since the Auditor General clarified that surface water risks should be similarly identified and managed, the NRCB has responded by providing its current strategies and by implementing a new data management system for surface water conditions at confined feeding operations. The NRCB's response has been to bolster its internal processes to strengthen its collection, management and analysis of surface water data.
 - The leak detection and risk based compliance programs have helped the NRCB demonstrate that the majority of confined feeding operations pose low environmental risk, and to focus on the minority that require some remediation or monitoring. The final audit of the Auditor General is anticipated in 2014.
OUTCOME: Members indicated their support for the NRCB's risk based approach. Members did encourage the NRCB to continue its commitment to ensuring that any response to the Auditor General respects the purpose statement of AOPA.
- Abandonment decisions and board reviews for cancelled permits:
 - In May 2013, members supported a draft policy for permit cancellation based on criteria presented at the Policy Advisory Group meeting. However, members indicated at that time that a board review process would be important to ensure that operators have recourse to appeal.
OUTCOME: The NRCB board subsequently considered its authority to review a permit cancellation decision and concluded that it does have that authority. Policy Advisory Group members reaffirmed their support for Board review of permit cancellation decisions.

- Short term solid manure storage:
 - Solid manure piles in proximity to public gathering places or road intersections are an issue for municipalities.
 - There was general consensus that the NRCB could address the issue of short term manure storage close to public gathering places as an inappropriate disturbance. A setback of 150 metres to residences is grounded in the legislation and could be used in cases where manure is being stored adjacent to public gathering places. Storage that may interfere with sight lines near roadway intersections was deemed to be the responsibility of Alberta Transportation or municipalities depending on the roadway. Industry members indicated that their associations also have a role to play, by educating confined feeding operators to choose sites for manure storage that respect public gathering places and road safety.

OUTCOME: It was agreed that an operational policy may not be required at this time. The NRCB may be able to address storage close to public gathering places through the inappropriate disturbance provisions of the act. Industry associations committed to better communicate the merits of appropriate setbacks from public gathering places for short term manure storage.

- Roll out of regional land-use plans and potential impact of environmental thresholds on confined feeding operations and municipal districts:
 - Members expressed concern that regional plans and associated management frameworks for groundwater and surface water may have negative impacts on the agriculture sector, and that decisions may be based on insufficient base-line research. Industry is conducting research on best management practices, which may be useful for the Government of Alberta to consider as part of its response to management frameworks.

OUTCOME: Senior officials in ESRD will be invited to the Policy Advisory Group to explain how the regional plans are proceeding. Members also encouraged each other to participate in the consultation processes.



Peter Woloshyn
Chief Executive Officer
Natural Resources Conservation Board
Co-chair, Policy Advisory Group
March 31, 2014



Sean Royer
Executive Director, Environmental Stewardship
Agriculture and Rural Development
Co-chair, Policy Advisory Group
March 31, 2014

Appendix 1: Participants

Guests		
Honourable Robin Campbell, Minister, Environment and Sustainable Resource Development (ESRD)		
Honourable Verlyn Olson, Minister, Agriculture and Rural Development (ARD)		
Vern Hartwell, Chair, Natural Resources Conservation Board (NRCB)		
Bill Werry, Deputy Minister, Environment and Sustainable Resource Development (session co-chair)		
Policy Advisory Group Members		
CATEGORY	NAME	STATUS
Co-chairs:		
NRCB	Peter Woloshyn, Chief Executive Officer	Full
ARD	Dave Burdek, Assistant Deputy Minister, Policy & Environment Sector	Full
Government:		
NRCB	Jim Turner, Board Member	Full
ARD	Sean Royer, Executive Director, Environmental Stewardship Division	Full
ESRD	Andy Ridge, Executive Director, Water Policy Branch	Full
Livestock industry:		
Beef sector	Stuart Thiessen, Past Director, Alberta Beef Producer	Full
Beef sector	Rich Smith, Executive Director, Alberta Beef Producers	Alternate
Beef sector	Bryan Walton, CEO, Alberta Cattle Feeders Association	Full
ILWG	Martin Zuidhof, Chair, Intensive Livestock Working Group	Full
ILWG	Ron Axelson, Executive Director, Intensive Livestock Working Group	Alternate
Poultry	Jason Born, Director, Alberta Chicken Producers*	Full
Pork	Darcy Fitzgerald, Executive Director, Alberta Pork	Full
Pork	Will Kingma, Policy Specialist, Alberta Pork	Alternate
Dairy	Martin Van Diemen, Board Director, Alberta Milk	Full
Dairy	Gert Schrijver, Director, Alberta Milk	
Municipal:		
Rural	Bob Barss, President, AAMDC	Full
Rural	Al Kemere, Director, District 2, AAMDC	Alternate
ENGOS:		
On behalf of the Alberta Environmental Network	Wayne Ungstad, Chair, Agricultural Caucus, Alberta Environmental Network (Ponoka Fish & Game Association)	Full
On behalf of the Alberta Environmental Network	Ann Baran, Agricultural Caucus, Alberta Environmental Network (Southern Alberta Group for the Environment)	Full
Technical Support:		
NRCB	Andy Cumming, Director, Field Services	
NRCB	Anne Kelly, Recorder	
NRCB	Jean Olynyk, Communications Consultant	
NRCB	Mike Wenig, Legal Counsel	
NRCB	Walter Ceroici, Director, Science, Technology & Compliance	
ARD	Sandi Jones, Branch Head, Agri-Environmental Management Branch	
Observers:		
Jonathon Koehl, Chief of Staff, Environment and Sustainable Resource Development		
Nick Harsulla, Chief of Staff, Agriculture and Rural Development		
Donna Tingley, Board Member, Natural Resources Conservation Board		

Jay Nagendran, Board Member, Natural Resources Conservation Board
Mike Slomp, Manager of Industry and Member Services, Alberta Milk
James Baird, Solicitor, Justice and Solicitor General (Agriculture and Rural Development)
Regrets:
Jason Krips, Deputy Minister, Agriculture and Rural Development
Albert Kamps, Second Vice-Chair, Alberta Milk (full Policy Advisory Group member)
David Hyink, Vice-Chair, Alberta Chicken Producers (full Policy Advisory Group member)
Erna Ference, Chair, Alberta Egg Producers (full Policy Advisory Group member)
Anita Gallard, AUMA (full Policy Advisory Group member)
Nora Decosemo, Executive Assistant to the CEO, NRCB

*attending on behalf of Erna Ference, Chair and David Hyink, Vice Chair (attending National Meetings in Ottawa)

Appendix 2: Accomplishments, 2011-2013

<p>Discussions, 2011-2013</p>	<p>3. AOPA manure record keeping requirements—NRCB field staff to educate operators that AOPA requires them to maintain records and to submit their records to the NRCB if requested.</p> <p>4. Surface water—NRCB field staff now have a consistent sheet for recording the condition of surface water during site visits. The information is maintained on the CFO database. Surface water issues are visible and easy to identify. All conditions are recorded.</p> <p>5. Unauthorized construction policy—effective September 21, 2012. Sets out steps NRCB field staff must use to determine whether construction is unauthorized under AOPA and the appropriate response. The policy allows some leniency for operators who self report, or who have a good compliance record and may have initiated construction without knowing that an AOPA permit was needed; also provides for stricter penalties for repeat offenders.</p> <p>6. Construction deadlines policy—revised draft discussed with PAG at the January 28-29 meeting.</p> <p>7. Abandonment policy—revised draft policy discussed with PAG at the January 28-29 meeting.</p> <p>8. Grandfathering determinations—the Locke judicial review of the NRCB grandfathering determination highlighted the need for clarity on how these determinations will be made when records are no longer available and testimony is conflicting. A checklist has been created for NRCB use until an operational policy is in place.</p> <p>9. Approval policy and new decision documents—the 2008 policy will be reviewed and updated in 2014 in consultation with PAG. New decision documents to increase transparency were implemented in 2013.</p> <p>10. CFO survey—the Ipsos Reid survey was repeated in 2012. It showed continued operator and complainant satisfaction with NRCB field staff but a desire for more information about permitting and compliance requirements, and the outcome of complaints.</p> <p>11. Lethbridge Biogas—the NRCB and ESRD entered into an interim agreement to clarify their regulatory responsibilities for the facility and the on-farm storage and spreading of the digestate it produces.</p> <p>12. Technical guidelines <i>Monitoring Well Construction, Installation and Development</i> (2011) <i>Reclamation of Groundwater Monitoring Wells</i> (2011) <i>Temporary Suspension of Manure Storage Facilities</i> (2012) <i>Closure of Manure Storage Facilities and Manure Collection Areas</i> (2012) <i>Determining Equivalent Protective Layers and Constructed Liners</i> (2013) <i>Leak Detection Monitoring Parameters</i> (2013) <i>Leak Detection Groundwater Sampling</i> (2013)</p>
<p>February 2, 2011 PAG terms of reference AOPA manure management record keeping requirements Information items: Industry strategy for phosphorous Updates: Leak detection program & awards; Board administrative procedures regulation review; technical guidelines</p>	
<p>October 4, 2011 PAG terms of reference NRCB response to surface water issues Risk management framework Updates: NRCB risk based compliance program; AOPA stakeholder survey; Board administrative procedures regulation review</p>	
<p>May 29 – 30, 2012 CFO survey results Policy discussions: – Linking AOPA and <i>Water Act</i> permits – Unauthorized construction – Abandonment – Construction deadlines Information items: OAG surface water recommendations; database verification Updates: Board administrative procedures regulation review; Locke judicial review; technical guidelines AOPA manure management record keeping requirements</p>	
<p>October 24, 2012 Policy discussions: – Linking AOPA and <i>Water Act</i> permits – Construction deadlines – Abandonment – Information items: Impact of regional plans on NRCB permitting Updates: Locke judicial review; technical guidelines; water research</p>	
<p>May 29, 2013 Policy discussions: – Abandonment – Construction deadlines – Amending municipal conditions – Grandfathering determinations Information items: Water licence process & timing; approval policy status and new decision documents</p>	
<p>Outcomes, 2011-2013</p>	
<p>1. PAG terms of reference and code of conduct—finalized and web posted.</p> <p>2. Linking AOPA permit applications with <i>Water Act</i> licences—operators must sign a declaration of intent to link or delink their applications and acknowledge their responsibility to obtain appropriate licences before constructing their facility. AOPA applications will not be processed if the operator does not sign the declaration.</p>	

Appendix 3: Stakeholder relations

The NRCB focuses on building open relationships and strong communication with its stakeholders, based on consultation, one-on-one communication, commitment to dialogue and an open-door policy. Since the last accountability session in September 2010, the following meetings and events were attended by NRCB staff, management and board members.

1. Meetings with municipal districts and counties

- Birch Hills County
- Camrose County
- Cardston County
- Fairview MD
- Flagstaff County
- Foothills MD
- Kneehill County
- Lacombe County
- Lesser Slaver River MD
- Lethbridge County
- Mountain View County
- Northern Sunrise County
- Ponoka County
- Saddle Hills County
- Smoky Lake County
- Starland County
- Stettler County
- Two Hills County
- Vulcan County
- Westlock County
- Wheatland County

2. Stakeholder member meetings

- AAMD&C Fall and Spring Conventions
- Ag-Choices
- Ag Expo
- Agri-Trade Exposition
- Air and Waste Management Association Annual Conference
- Alberta Beef Industry Conference
- Alberta Beef Producers Annual General Meeting
- Alberta Beef Producers Regional Meetings (Cochrane, Fairview, Red Deer, Strathmore, Sundre, Westlock)
- Alberta Beef Producers Semi-Annual Meeting
- Alberta Farm Animal Care Conference
- Alberta Institute of Agrologists Conference
- Alberta Irrigation Projects Conference
- Alberta Milk Dairy Conference
- Alberta Milk Regional Meeting (Red Deer)
- Alberta Pork Annual General Meeting
- Alberta Pork Congress
- Alberta Pork Regional Meetings (Grande Prairie, Fort Saskatchewan, Red Deer)
- Alberta Rural Municipal Administrators Association Trade Show
- Alberta Veterinary Medical Association General Meeting
- Banff Pork Seminar
- Canadian Cattlemen's Semi-Annual Meeting
- Canadian Water Resources Association Alberta Chapter Annual Conference
- Canfax Cattle Market Forum
- Clean Air Strategy Focus Group Sessions (Calgary, Lethbridge)
- Cows, Creeks and Communities
- Extensive Cattle Wintering Workshop
- International Livestock Congress
- Manure Management Update Conference

- Medicine River Watershed Group
 - National Cattlemen's Beef Conference
 - Parkland Airshed Management Zone Ozone Management Workshop
 - Peace Country Classic Agri-Show
 - Red Deer River Watershed Alliance
 - RemTech Conference
 - Tri-Provincial Manure Management Workshop
 - Water, Agriculture and the Environment Conference
 - Water Technologies Symposium
 - Whelp Creek Sub-Watershed
3. Other meetings
- Alberta Environment & Water – meeting with groundwater staff
 - Alberta Health Services – meeting with health inspectors
 - Calgary Stampede – NRCB/Agriculture & Rural Development booth
 - Canadian Institute of Resources Law – public participation conference
 - Concordia University- presentation to health science students
 - Globe 2012 – International Environmental Conference
 - Joint meetings with approval officers/inspectors and Agriculture and Rural Development extension specialists
 - University of Calgary – presentation to law students
4. Tours of confined feeding facilities
- Ab Bertens Dairy
 - Bles Wold Dairy
 - Gilani Investments\Spark Eggs Farm
 - Lethbridge Biogas
 - Old Elm Colony
 - Roelofsen
 - Ron Samay feedlot
 - Scotford Colony
 - Sunterra
 - Three Hills Colony
 - Tongue Creek Feeders/Eco Ag
 - VandeBosch Poultry
 - YFF Dairy
 - Zealand Farms

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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 from the Natural Resources Conservation Board or Agriculture and Rural Development websites.

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