



The Permitting Process for Confined Feeding Operations in Alberta

Fact Sheet

Confined feeding operations and AOPA

- Confined feeding operations (CFOs) include beef, dairy, hog, poultry, sheep, goat, bison, and mixed livestock operations. They may be family-run or commercial operations.
- The NRCB is responsible for regulating CFOs under the *Agricultural Operation Practices Act* (AOPA). The act is the responsibility of Alberta Agriculture and Irrigation.
- CFOs need an AOPA permit if they have more than the minimum number of livestock outlined in AOPA regulations. (Cow/calf and livestock grazing operations are not CFOs and do not need an AOPA permit unless livestock are fed during the grazing season.)
- Stand-alone manure storage facilities storing 500 tonnes or more of manure need an AOPA permit.
- AOPA sets out technical standards and regulations to protect groundwater and surface water, and to reduce the nuisance impact of the operation on neighbours.
- Constructing, expanding, or modifying a CFO or manure storage facility without obtaining the required permit is a serious violation of AOPA. Operators may be required to depopulate or dismantle a facility that was constructed without a permit, and could face prosecution. For more information, please refer to the NRCB fact sheet on [unauthorized construction](#) available at www.nrcb.ca.
- In order to obtain a permit under AOPA, applicants must meet the technical standards and other requirements set out by the act (including land use provisions of their local municipal development plan). CFOs must operate in compliance with AOPA, its regulations, and all conditions in their permit.
- CFOs must also comply with any other legislation that has authority over the operation—for example, the *Water Act*, the *Environmental Protection and Enhancement Act*, the *Animal Health Act*, and the *Public Health Act*, among others.

AOPA permits

- Three kinds of permits are issued under AOPA:
 - An **approval** is required to construct or expand a larger confined feeding operation.
 - A **registration** is required to construct or expand a smaller confined feeding operation.
 - An **authorization** is required to construct, expand, or modify a manure storage or collection facility when there is no increase in livestock numbers or annual manure production.
- Amendments to permits, including changes to permit conditions, also follow AOPA permitting processes.

Permit applications

- Applications are submitted in two parts and are considered public documents.
- The Part 1 application provides general information and discloses an intention to construct or modify a CFO or manure storage facility. When Part 1 is submitted, the NRCB:
 - determines the minimum distance separation (MDS) on the date the application is received
 - notifies the municipality in which the CFO or proposed CFO is located
 - starts the clock on the six month time limit to submit a Part 2 application; if the applicant needs more time to submit the Part 2 application, they must request and be granted an extension (up to a maximum of an additional six months).

page 2...

The Permitting Process for Confined Feeding Operations in Alberta

- The Part 2 application provides the technical details to show how the applicant will meet AOPA requirements. When Part 2 is submitted, the NRCB:
 - reviews it to determine whether there is enough information to deem it complete, and
 - provides notice when the application is deemed complete.

Notice:

- For **approval and registration** applications, notice is provided on the NRCB website, and in a local newspaper where possible. The NRCB also sends notification letters to people (as identified by the municipality) who own or reside on land within the notification distance. The notice invites written responses to the NRCB and states the deadline for response (see section below regarding responses.)
- For **authorization** applications, AOPA only requires notice be provided to the municipality.
- For all applications, the NRCB may also send copies of the application to other regulatory authorities that could be involved with the operation, for example, Alberta Environment and Protected Areas regarding water licensing requirements.

Processing applications:

- NRCB approval officers review each application to assess whether it meets the requirements of AOPA.
- Approval officers also assess potential risks to groundwater and surface water quality.
- The NRCB cannot issue permits unless the application meets all AOPA requirements, including consistency with the land use provisions of the local municipal development plan.
- If a permit is issued, the approval officer may include relevant terms and conditions. Commitments that go beyond AOPA requirements, and that were made by the applicant in their application, will also be included as conditions.

Decisions on applications:

- The applicant, municipality, and any party who submitted a response to the application is provided a copy of the application decision documents. These documents are also posted on the NRCB website at www.nrcb.ca.

- If they disagree with all or a part of the decision, the applicant, and other directly affected parties, have the right to request that the Board of the NRCB review the approval officer's decision (see sections below regarding responses and directly affected parties).
- Parties determined not to be directly affected have the right to request that the Board of the NRCB review their status.

Post-construction inspections:

- A post-construction inspection by the NRCB is required before a permitted facility can be used for manure storage or populated with livestock. The inspection is jointly scheduled by the operator and the NRCB.
- Operators must contact the NRCB to arrange the inspection date at least 10 working days before they would like the inspection to take place.

Responses

- Any party may submit a response to the notice about approval or registration applications.
- The approval officer will consider the response as part of their review of the application if:
 - it is submitted by a directly affected party (see below), and
 - it is received within the deadline stated in the notice.
- Responses must be submitted in writing, by email, or mail and are considered public documents.
- The NRCB provides the applicant a copy of every response.
- If the response raises an issue that falls under AOPA, the approval officer will address the issue in their decision. Issues raised which fall outside the NRCB's regulatory authority under AOPA will not be addressed.
- The NRCB sends a copy of the approval officer's decision to every party who submits a response.

page 3...

The Permitting Process for Confined Feeding Operations in Alberta

Directly affected parties

- Directly affected party status means that:
 - The approval officer must consider issues in the party's response that apply to AOPA.
 - The party may request an NRCB Board review of the approval officer's decision.
- The only directly affected parties for authorization applications are the applicants and the affected municipalities as specified in AOPA.
- For approvals and registrations, a party who meets **all** of the following criteria is presumed to be directly affected:
 - they reside or own land within the notification distance
 - they provide a response to the notice, and
 - their response is received within the deadline stated in the notice.
- In addition, neighbours who sign a minimum distance separation (MDS) waiver, when it is required for an application, are presumed to be directly affected. This does not apply to authorization applications.
- For approval applications only, AOPA also allows a party who owns or resides on land outside the notification distance to seek directly affected party status and submit a response. To be considered for directly affected party status, their response needs to demonstrate that:
 - a plausible chain of causality exists between the proposed project and the effect asserted
 - the effect would probably occur
 - the effect could reasonably be expected to impact the party
 - the effect would not be trivial, and
 - the effect falls within the NRCB's regulatory mandate under AOPA.
- If the approval officer determines that the party does not qualify for directly affected party status, the party's response will not be considered.
- Parties who are denied directly affected party status may request that the Board of the NRCB reconsider the approval officer's decision on their status.

Minimum distance separation (MDS) and MDS waivers

- AOPA sets out the minimum distance that a confined feeding operation facility must be set back from a neighbouring residence. The distance depends on the size and type of the operation and is intended to minimize nuisance impacts.
- In some cases, the operation may not meet the MDS and the applicant may ask a neighbour to sign an MDS waiver that would allow the operator to build closer to the neighbour's residence than the act specifies.
- For information on waivers please refer to the [minimum distance separation waiver fact sheet](#) at www.nrcb.ca. An [MDS waiver form](#) is also available.

Grandfathered operations

- AOPA considers CFOs that existed on January 1, 2002 to be grandfathered.
- If the CFO's capacity is determined to have been above the AOPA permitting threshold, the grandfathered operation would be considered to have a deemed AOPA permit.
- If a grandfathering determination is required, the applicant will need to provide documentation to support their claimed grandfathered status.
- Notice of a grandfathering determination is normally included as part of the notice for the application.
- Grandfathered operations are not required to retrofit facilities built before 2002 to AOPA standards. However, they are not allowed to create a risk to the environment and must address any risks that are identified.
- The applicant or other directly affected parties, have the right to request that the Board of the NRCB review the grandfathering determination.

Further information

- For more information, please contact:

NRCB field offices:

Morinville 780-939-1212

Red Deer 403-340-5241

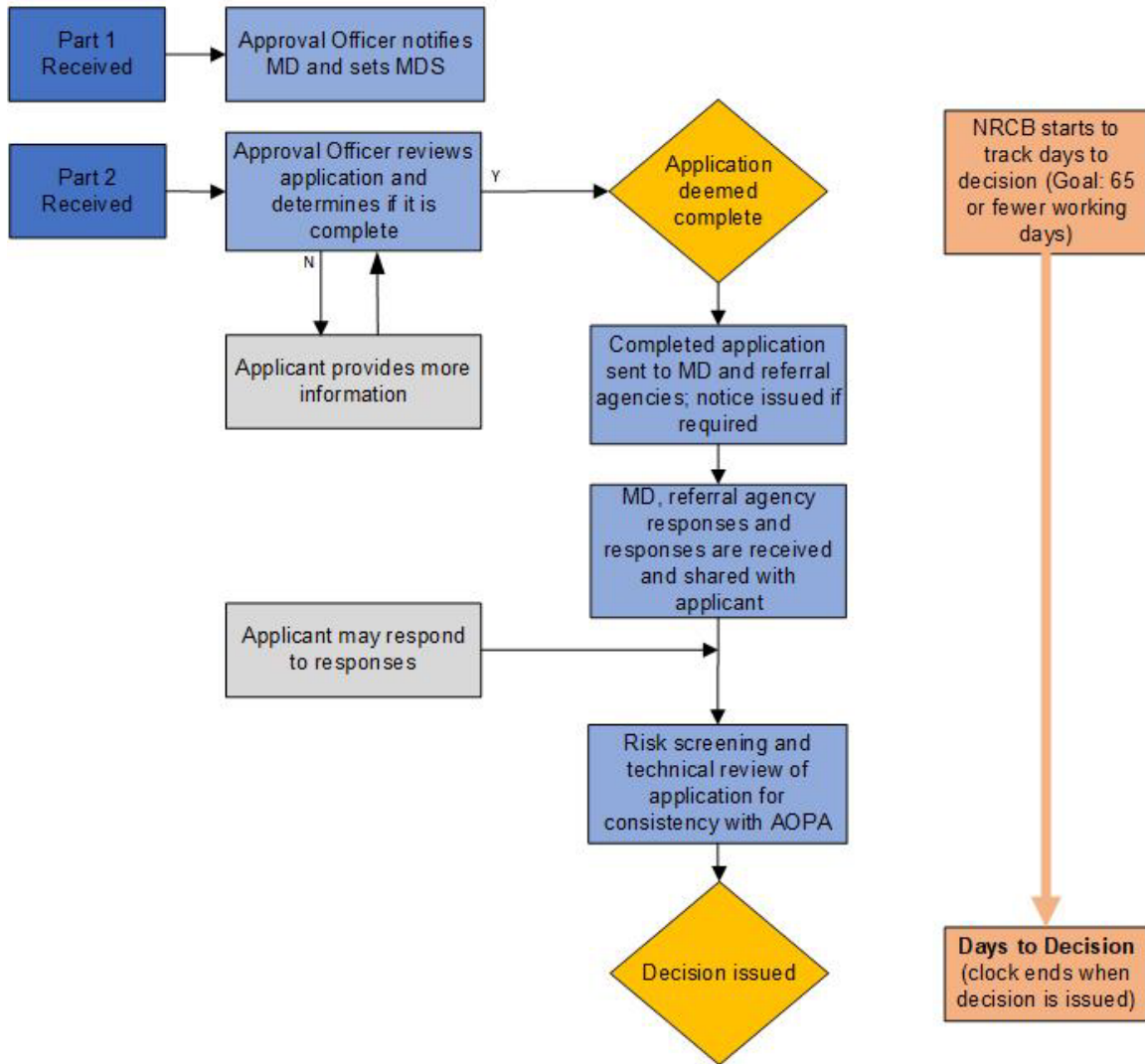
Airdrie 403-340-5241

Lethbridge 403-381-5166

Dial 310-0000 to be connected toll free. Fact sheets and other NRCB publications are available at www.nrcb.ca.

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Application Review Process



Further information

For further information please contact an NRCB approval officer at an NRCB field office near you. Dial 310-0000 to be connected toll free.

NRCB Field Offices

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 Red Deer 403-340-5241
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