

Enforcement Order No. EO 24-01

*Made under section 39 of the
AGRICULTURAL OPERATION PRACTICES ACT, RSA 2000, c A-7 (AOPA)*

Date issued: November 22, 2024

Issued by: Fraser Grant, Senior Inspector
Compliance and Enforcement Division
Natural Resources Conservation Board (NRCB), Airdrie Office

Issued to: Perkins Farms Inc.
Box 2939
Wainwright AB T9W 1S8
Ian Perkins

Basis for Order: Manure management

I, Fraser Grant, Inspector appointed by the Natural Resources Conservation Board, issue this enforcement order under section 39(1) of the *Agricultural Operation Practices Act* (AOPA) against:

Perkins Farms Inc. and Ian Perkins

on the basis that they have failed to operate in accordance with AOPA and its regulations. Specifically, this enforcement order relates to manure spreading across property lines onto adjacent land conducted by Perkins Farms Inc., which is a swine confined feeding operation (CFO) owned by Perkins Farms Inc. and managed by Ian Perkins. E½ 08-47-05 W4M, owned by Perkins Farms Inc., are among spreading lands for manure from the CFO. However, there is evidence that solid hog manure was spread without permission on W½ 08-47-05 W4M, which is land not owned by Perkins Farms Inc. The impact on neighbouring properties to the west of the spreading lands is a direct result of manure produced by Perkins Farms Inc. and the way it is managed and land applied.

The operation is located at SW 09-47-05 W4M, in the Municipal District of Wainwright No. 61, approximately 23 km northeast of Wainwright, Alberta. The CFO operates under NRCB Approval RA02047 and is currently permitted for 1,680 weaner hogs and 4,360 feeder hogs. The swine operation produces both liquid and solid manure.

Background and investigation

On October 28, 2024, the NRCB compliance manager received a complaint informing him that Perkins Farms Inc. had spread solid manure on the NE and SE quarters of section 8. The complaint indicated that manure was spread along the property line on three sides and a lot of manure, and bones were applied on to the neighbouring land (W½ 08-47-05 W4M). This complaint was filed under NRCB complaint RC24062. The NRCB compliance manager phoned the complainant to discuss the concerns. During this conversation it was

clear that Perkins Farms Inc. was not welcome to access the neighbouring land to clean up the manure.

On October 29, 2024, I conducted a site inspection of E½ 08-47-05 W4M. Prior to inspecting these fields I spoke with the complainant and left a voicemail with Ian Perkins. I accessed SE 08-47-05 via an oil and gas access road. Solid manure was spread approximately 200 m south of the oil and gas wellsite (Appendix A). The manure spreading continued to the north. I walked directly north along the E½ 08-47-05 W4M and W½ 08-47-05 W4M property line (Appendix A). I did not observe solid manure spread across the property line for the first ~200 m. Directly west of the wellsite, where the access road ended, it was evident that solid manure had been spread up to the property line, and in some cases minor amounts crossed the property line onto SW 08-47-05 W4M. At the time of my inspection, I did not observe any bones spread across property lines. This was consistent for ~300 m. The land then became pasture, and I crossed a fence line onto NE 08-47-05 W4M. At ~400 m north of the SE/NE property (15-08-47-05 W4M), solid manure was once again spread up to the property line, and in some cases minor amounts had been spread across the property line onto NW 08-47-05 W4M. At the time of the site inspection, the areas of solid manure spreading on the CFO owner's property that I inspected appeared to be incorporated.

After my inspection I met with the complainant. We discussed concerns, historical and on-going. The mentioned concerns were not all specific to my site inspection, however, some of the concerns related to past non-compliance manure management practices. These have also been documented by the NRCB and are part of the reason why an enforcement order is being issued.

After my discussion with the complainant, I contacted Ian Perkins. Mr. Perkins informed me that he utilized custom manure spreading operators to spread solid manure and had informed them to adhere to setbacks given the historic complaints they have received on this file. Mr. Perkins appeared frustrated that solid manure was spread across the property line and said he had contacted the custom operators that he hired to inform them of the non-compliant manure spreading. I informed Mr. Perkins that the NRCB would be taking compliance action as a result of the non-compliance actions regarding manure management.

I referred to NRCB's Operational Policy 2021-1 (Manure Release Response Policy). The policy states that there are three types of manure releases, one of which is a manure release that is not contained on the property owned or utilized by the CFO (but not entering a common body of water). Manure is defined by AOPA as livestock excreta, which includes solid manure. The policy describes the process in responding to a release, and also gives the inspector discretion to modify their response where necessary and as appropriate. Given that Perkins Farms Inc. does not have permission to access W½ 08-47-05 W4M, they are not required to clean up the solid manure spread on these lands. The area that received the manure is not cultivated land, therefore would not require incorporation if manure spreading setbacks are met. In my opinion, the location that solid manure has been spread suggests the risk to the environment is not immediate. This is also supported by the neighbouring landowner not granting Perkins Farms Inc. access to remove the solid manure. However, spreading on land that is not owned by the operator is considered a release and the operator has lost control over the solid manure, which could still create an environmental risk.

I have reviewed past complaints and non-compliance activities on this file. There have been non-compliance events related to manure incorporation, maintaining manure spreading setbacks, and a manure release. An AOPA warning was also issued on this file in 2020 in response to manure setbacks and incorporation. A summary of some of the non-compliant manure management events which are resulting in this enforcement order are listed in Table 1.

Table 1. AOPA and Permit Condition Non-Compliant Events

Date	NRCB Complaint Number	AOPA and Permit Condition Non-Compliant Events
Oct 20, 2011	RC11163	Manure not incorporated within 48-hour timeline
Dec 7, 2012	RC12182	Manure spread on frozen and snow-covered land without permission from the NRCB
Oct 23, 2013	RC13118	Manure setbacks not maintained; manure released on roadway
Oct 28, 2016	RC16098	Spread manure too close to residence and did not incorporate within 48-hour timeline
Nov 2, 2020	RC20128	Manure not incorporated within 48-hour timeline; manure setbacks not maintained (AOPA warning issued)
Oct 21, 2021	RC21071	Manure not incorporated properly

Non-compliance with regulations under AOPA

Section 39 of AOPA authorizes the Natural Resources Conservation Board to issue an enforcement order if, in their opinion, a person is creating a risk to the environment or is contravening or has contravened AOPA or its regulations.

AOPA aims to reduce the potential for groundwater contamination and surface water runoff, and to lessen the nuisance impacts of CFOs on neighbours. The Standards and Administration Regulation (SAR) is one way that AOPA achieves its aims.

The SAR requires that liquid manure or catch basin contents do not create an environmental risk by leaving the land they are applied.

27(1) A person who applies liquid manure or catch basin contents must ensure that the manure or catch basin contents do not create a risk to the environment by leaving land to which they are applied.

Section 27(1) focuses on environmental risk. While the section addresses liquid manure or catch basin contents, it is my opinion that solid manure that is spread across a property line, leaving the land in which it was intended to be applied, would create a similar environmental risk as the operator loses control of that manure.

Furthermore, section 13(2) of AOPA requires a person who holds an approval or registration to comply with and operate in accordance with the terms and conditions of the permit. Approval RA02047 requires, among other things, that the permit holder must adhere to AOPA and its regulations (condition 1.a.); must test cropland annually for soil nutrient levels (condition 6.a.); liquid manure must be either directly injected or surface applied and incorporated within 48 hours (condition 7.b.), must incorporate solid manure within 48 hours (condition 7.c.), and

manure must not be spread on frozen or snow covered ground (condition 7.d.).

The scope of an enforcement order is forward-looking. Orders under section 39(1) of AOPA may include:

- (f) specifying the measures that must be taken in order to effect compliance with the approval, registration, authorization, variance, cancellation, this Act or the regulations.

The Board has delegated to me, as an Inspector, the authority to form opinions and issue enforcement orders under section 39.

Based on my observations, my conversations with Kevin Seward (Compliance Manager), review of past manure spreading events documented in the NRCB CFO database, and my site inspection of October 29, 2024, I conclude that Perkins Farms Inc. is repeatedly failing to comply with the regulations and their NRCB permit conditions.

The operator has had several non-compliance actions regarding manure management. Specifically manure spreading setbacks, allowing manure to cross a property line, not incorporating within 48 hours, and spreading on frozen or snow-covered land. An AOPA warning was issued in 2020 for not incorporating manure within 48 hours (SAR 24(1)) and manure application limits and setbacks not maintained (SAR 24(5)). The operator has an NRCB permit (RA02047), and received 58 complaints, therefore is well aware of the NRCB and the regulations under AOPA. It should be noted that the operator has been cooperative when dealing with non-compliance issues and has responded in a timely manner when given direction by the NRCB.

ORDERS:

To mitigate any possible risks to the environment and potential nuisances to any affected neighbours, Perkins Farms Inc. and Ian Perkins shall take all necessary and appropriate measures to comply with AOPA and its regulations. The aim of the following orders is partly to foster greater accountability from the CFO to the NRCB. These orders are finite (3 years) with the understanding that this duration will encourage the operator to develop more sustainably compliant practices.

In particular, Perkins Farms Inc. and Ian Perkins shall:

1. Submit, to the NRCB, soil analysis records prior to manure application (liquid and solid), in both spring and fall:
 - a. the soil test must be collected within one year prior of the date of manure application;
 - b. soil tests must meet the requirement of Schedule 3 of the AOPA Standards and Administration Regulation; and
 - c. prior to manure application, submit to the NRCB soil test results from each field that is to receive manure.
2. Notify the NRCB 24-hours prior to all manure application (liquid and solid), whether application is performed by Perkins Farms Inc., Ian Perkins, or by a custom applicator.
3. Submit, to the NRCB, manure spreading records (liquid and solid) within 30 days of manure application to that field. Records are to include the following information:
 - a. the legal land description to which manure or composting materials are applied;

- b. the area of the land to which manure or composting materials are applied;
- c. the volume or weight of the manure or composting materials applied;
- d. the application rates of the manure or composting materials and commercial fertilizer by field and year; and,
- e. the dates of manure application, incorporation dates, and the methods used for incorporation for each field.

The orders contained above are in effect until November 15, 2027. Any of the orders contained above may be altered in writing, but only by the NRCB, at the sole discretion of the NRCB.

Perkins Farms Inc. or Ian Perkins shall allow the NRCB access at any reasonable hour, with or without advance notice, to the land, spreading lands, and structures for the purpose of assessing compliance with the orders contained in this enforcement order.

All actions required above shall be in compliance with AOPA and its implementing regulations and shall not violate any other law. These requirements, including any deadlines, remain in effect until otherwise directed by the NRCB in writing.

The NRCB posts all enforcement orders on the NRCB public website.

CONSEQUENCES OF NOT COMPLYING WITH THIS ORDER

If any person to whom this enforcement order is directed fails to comply with any part of this enforcement order, the Natural Resources Conservation Board may apply to the Court of King's Bench for an Order of the Court directing those persons to comply with the enforcement order, under section 42 of the *Agricultural Operation Practices Act*.

When an enforcement order is issued to more than one person, all persons named in the Order are jointly responsible for carrying out the terms of the Order, under section 43 of the *Agricultural Operation Practices Act*.

NOTE: Under section 39(3), if a person to whom this enforcement order is directed complies with the Order, no prosecution may be commenced under the *Agricultural Operation Practices Act* for the offence with respect to the facts that gave rise to this enforcement order.

(Original signed)
Fraser Grant
Senior Inspector, Compliance and Enforcement Division
Natural Resources Conservation Board

Cc: M.D. of Wainwright No. 61 (*sent by email*)

Appendices

- A. Google Earth Aerial Imagery September 2019 – labelled by F. Grant

SERVICE OF ORDER:

Delivered to: Ian Perkins	Delivered to:	Delivered to:
Method of Delivery: Via email	Method of Delivery:	Method of Delivery:
Date of Delivery: November 22, 2024	Date of Delivery:	Date of Delivery:

INFORMATION: RIGHT TO REQUEST A REVIEW OF THIS ENFORCEMENT ORDER

Under section 41 of AOPA, you may request that the NRCB's board members (the "Board") "review and confirm, vary, amend or rescind" this enforcement order. The Board has discretion whether to hold a review or not.

Please note that, under section 41(2), this enforcement order takes effect at the time prescribed in the order. This enforcement order will remain in effect unless the Board suspends the operation of this enforcement order.

Under section 13 of the AOPA Administrative Procedures Regulation, AR 106/2017, your request, must include:

- a) a clear and concise statement of the facts relevant to your request
- b) the grounds on which your request is made
- c) a brief explanation of the harm that has resulted or will result from the enforcement order addressed in your request
- d) a brief description of the remedy you seek; and
- e) the name, address in Alberta and telephone number, and email address, if any, of you or your representative (if you have one).

If you want the enforcement order suspended until the Board's review is completed, you must also be clear about this in your written request for review, and provide your reasons for asking for a suspension of this enforcement order.

Under section 15(2) of the *AOPA Administrative Procedures Regulation*, a request for a review of the enforcement order must be filed with the Board within 10 working days of the date you received the enforcement order or by any later date specified in the order.




Because this enforcement order does not extend the 10 working day deadline in section 15(2) of the Regulation, the deadline for you to file a request for review by the Board is **4:30 p.m. on December 6, 2024**.

If you wish to have the Board review this order, please submit a written request to Laura Friend, Manager, Board Reviews by email at laura.friend@nrcb.ca. If you have any questions about requesting a review or about the review process, please call Ms. Friend at 403-297-8269.

EO24-03 Perkins Farms Inc.

E1/2-08-47-05 W4M

Legend

-  Area of AOPA infraction
-  Manure spreading area
-  Walking path

NW

NE

NW

SW

SE

SW

Google Earth

Image County of Vermilion River
Image © 2024 Maxar Technologies



600 m