



Minimum Distance Separation (MDS) Waivers

Fact Sheet

Permit applications and waivers

- Alberta's confined feeding operations are regulated under the *Agricultural Operation Practices Act* (AOPA) by the Natural Resources Conservation Board (NRCB). The act and its regulations set out the technical standards and requirements that applicants must meet in order to receive a permit for a new facility or an expansion. If the site of a proposed facility is closer to a neighbour's residence than the setback that is required under the regulations, the operator may still be entitled to a permit if the neighbour agrees to waive the setback to their residence.

Minimum distance separation requirements

- Confined feeding operation facilities must be set back from neighbouring residences, to help minimize the nuisance to neighbours caused by odour, dust and noise. The distance the facility must be from neighbouring residences (not owned by the operator) is called the "minimum distance separation" (MDS).
- The MDS is measured as of the date the NRCB receives the Part One permit application. Operators can also ask an approval officer to calculate the MDS for their proposed development before they submit their Part One application.
- If a proposed development cannot meet the required MDS, the applicant can revise their application to relocate their proposed facility further away from neighbouring residences. Or the applicant can ask the owner of the residence if they would be willing to sign a waiver of the MDS requirement to their residence. The residence owner is not obligated to sign the waiver.

Calculating MDS

- NRCB approval officers use the formula set out in AOPA's Standards and Administration Regulation to calculate MDS requirements.

This formula is based on the following factors:

- proposed animal numbers
 - type(s) of animals that will be confined
 - whether manure held in the facility is liquid or solid
 - municipal land zoning and type of residential development
- MDS is measured from the closest point where the manure would be collected or stored at the confined feeding operation to the outside walls of neighbouring residences.

Required information for an MDS waiver

- The NRCB encourages applicants to use its standard waiver form. Applicants can develop their own form, but it must include the same information as the information on the NRCB's form. In particular:
 - Both the applicant and the affected residence owner(s) must complete, sign and date the waiver.
 - The residence owner must confirm that they are aware of the nature of the proposed development.
 - The MDS waiver must identify the AOPA permit application. A waiver can apply only to the specific AOPA permit application identified in the waiver.
- Applicants who ask a neighbour to sign a waiver must provide the neighbour with:
 - A clear description of their operation and proposed development.
 - A copy of the proposed site layout plan and permit application, if available.
- Applicants must submit the signed waiver with their AOPA permit application.
- Permit applications will not be considered complete until all required waivers are in place.

Confidentiality

- Waivers are part of the permit application and are on the public record, however, the NRCB **does not publicly release** personal contact information.
- Personal contact information (telephone numbers and e-mail) is removed from the waiver but is required to ensure the NRCB can follow up with the neighbours who have signed it.

Changes to the proposed development

- A new waiver is required if an applicant makes significant changes to their planned development after a waiver is signed. For example, applicants must obtain a new waiver if they increase the proposed number of animals or locate the proposed manure storage or collection facilities closer to residences than on the original site plan.

Conditional waivers

- If a waiver includes one or more conditions, the NRCB will determine whether the conditions are enforceable.
- If the conditions are enforceable (for example, requiring manure to not be spread on certain land), the NRCB will treat the conditions as commitments made by the applicant, and will adopt them as permit conditions if a permit is issued.
- If the conditions are not reasonably enforceable (for example, requiring the operator to use the “most up to date” technology and equipment), the NRCB will not accept the waiver and the MDS requirements will remain in effect. The NRCB will inform the applicant and the neighbour who signed the waiver that the waiver has been rejected.

Cancelling a waiver

- The waiver can be cancelled at any time before the deadline to submit statements of concern. This date is set out in the official notice for the application.
- The neighbour who signed the MDS waiver must provide written notice of the cancellation to the NRCB approval officer. The NRCB approval officer will notify the operator of the cancellation.

Further information

- Applicants and neighbours may obtain further information by contacting an approval officer at an NRCB field office.

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.

Updated January 21, 2016
Office contacts updated February 12, 2018
Office contacts updated October 3, 2023