

Decision Summary RA16011A – Approval Officer Amendment of NRCB Approval RA16011

This document summarizes my reasons for issuing Approval RA16011A, an amended version of Approval RA16011. This amended approval is issued on my own motion, under section 23 of the *Agricultural Operation Practices Act* (AOPA). My decision is based on the act and its regulations, the policies of the NRCB, and the information contained in the permit file.

1. Background and reasons for the amendment

Colin Thiessen owns and operates an existing chicken broiler confined feeding operation (CFO) located at the NW 18-44-20 W4M. The CFO is located approximately 5.5 kilometres northeast of Ferintosh, Alberta.

The CFO is currently permitted under NRCB Approval RA16011, which consolidated a deemed registration and Registration RA15051. The CFO was also issued Authorization RA18065, which authorized the relocation of an existing broiler barn. Approval RA16011 permitted the construction and operation of a poultry operation with 86,000 chicken broilers and the following CFO facilities:

- Two-story broiler barn (40.3 m x 14.1 m)
- Chicken broiler barn (78 m x 18.3 m)
- Chicken broiler barn (41.8 m x 14.8 m)
- Chicken broiler barn (95.1 m x 20.7 m)

Condition 3 of Approval RA16011 required Colin Thiessen to construct the 95.1 m x 20.7 m chicken broiler barn by February 28, 2019, unless “upon request, this deadline may be extended by the NRCB in writing”.

A request was submitted by Colin Thiessen to extend the construction deadline prior to the expiry of the permit on February 28, 2019, and the construction completion deadline was extended to February 28, 2020.

The NRCB’s *construction deadline* policy (Operational Policy 2015-1) states that when construction completion deadlines have lapsed, the permit is to be amended to exclude the unconstructed facilities and to revise the livestock capacity to reflect the livestock capacity of the constructed facilities.

To date, the permit holder has only constructed the following CFO facilities:

- Two-story broiler barn (40.3 m x 14.1 m)
- Chicken broiler barn (78 m x 18.3 m)
- Chicken broiler barn (41.8 m x 14.8 m) – relocated under Authorization RA18065

In accordance with Operational Policy 2015-1, I am therefore amending Approval RA16011 on my own motion under section 23 of AOPA to exclude the unconstructed chicken broiler barn (95.1 m x 20.7 m) from the permitted CFO facilities.

Additionally, because the CFO no longer has the capacity to accommodate the previously permitted broiler numbers, I am also amending the permitted livestock capacity to reflect the livestock capacity of the constructed facilities.

To determine the revised permitted capacity, I discussed the CFO current capacity with the permit holder, and calculated the stocking densities of the constructed barns as follows:

- two-story broiler barn: 20,000 chicken broilers
- 78 m x 18.3 m chicken broiler barn: 25,000 chicken broilers
- 41.8 m x 14.8 m chicken broiler barn: 10,000 chicken broilers.

The revised total permitted capacity for the CFO will therefore be 55,000 chicken broilers.

2. Other factors considered

This approval officer amendment meets all relevant AOPA requirements with the terms and conditions summarized below, in Approval RA16011 and Decision Summary RA16011.

As the permitted animal capacity for the CFO is being reduced by this amendment, the assessments and conclusions in Decision Summary RA16011 about other considerations under Section 20 of AOPA also remain valid.

As noted in Decision Summary RA16011, that application was consistent with the land use provisions of Camrose County's municipal development plan (MDP). Camrose County has since adopted a revised version of their MDP; and therefore, the approval officer amendment's consistency with the revised MDP is addressed in appendix A, attached.

3. Terms and conditions

Approval RA16011A specifies the new permitted livestock capacity as 55,000 chicken broilers,

It also includes, in its appendix, the already constructed facilities:

- Two-story broiler barn (40.3 m x 14.1 m)
- Chicken broiler barn (78 m x 18.3 m)
- Chicken broiler barn (41.8 m x 14.8 m)

For clarity and efficiency, and in accordance with NRCB policy, rather than issue separate amendment documents, I am issuing a new, amended approval (RA16011A) and cancelling Approval RA16011. The amended approval will have the same terms and conditions as Approval RA16011, except those related to the unconstructed 95.1 m x 20.7 m chicken broiler barn, and amalgamates Authorization RA18065. The appendix of Approval RA16011A contains the already met construction conditions and facilities, associated with Approval RA16011 and Authorization RA18065.

4. Conclusion

Approval RA16011A is issued for the reasons provided above and becomes effective immediately.

Approval RA16011 and Authorization RA18065 are therefore cancelled, unless Approval RA16011A is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval RA16011 and Authorization RA18065 will remain in effect.

April 16, 2021

(Original Signed)
Francisco Echegaray, P.Ag.
Approval Officer

Appendices:

A. Consistency with the municipal development plan

APPENDIX A: Consistency with the municipal development plan

Under section 20 of AOPA, an approval officer may approve an amendment of an approval only if the approval officer finds that the application is consistent with the “land use provisions” of the applicable municipal development plan (MDP).

The NRCB interprets the term “land use provisions” as covering MDP policies that provide generic directions about the acceptability of various land uses in specific areas and that do not call for discretionary judgements relating to the acceptability of a given confined feeding operation (CFO) development. (See NRCB Operational Policy 2016-7: *Approvals*, part 8.2.5.) Under this interpretation, the term “land use provisions” also excludes MDP policies that impose procedural requirements. In addition, section 20(1.1) of the act precludes approval officers from considering MDP provisions “respecting tests or conditions related to the construction of or the site” of a CFO or manure storage facility, or regarding the land application of manure. (These types of MDP provisions are commonly referred to as MDP “tests or conditions.”)

Colin Thiessen’ CFO is located in Camrose County and is therefore subject to that county’s MDP. Camrose County adopted the latest revision to this plan on April 12, 2016, under Bylaw 1372.

As relevant here:

Policy 4.3.7 of the MDP states: “applications for new or expanding CFOs shall meet the Agricultural Operations Practices Act.” As discussed in section 2 above, the approval officer amendment meets all relevant AOPA requirements.

Policy 4.3.8 states: “At the discretion of County Council, large CFOs shall be prohibited in the County.” This policy likely is not a “land use provision” because it calls for discretionary judgements about the size of the CFO.

Policy 4.3.9 states: “Development of new or expanding CFOs shall not be supported within 3,219 m (2 miles) of the City of Camrose, 3,219 m (2 miles) from any recreational lake, or 1,610 m (1 mile) from any other urban municipality or hamlet as outlined in the IDP.” Colin Thiessen’s CFO is not located within neither of these setbacks.

For these reasons, the approval officer amendment is consistent with the land use provisions of Camrose County’s MDP.

In my view, the MDP clearly intends to incorporate Camrose County’s Land Use Bylaw (LUB) # 1373 (see NRCB Operational Policy 2016-7: *Approvals*, part 8.2.3). Sections 1.5, 7.3.14, 8.3.3, and 10.3.3 of the MDP state that “the County’s LUB serves as the regulatory document for making all land use related decisions”. Accordingly, I considered the LUB. Under the LUB, the subject land is currently zoned General Agricultural (A) District. Under section 702.2 of the bylaw, CFOs are included in a list of “discretionary” land uses for that zoning category. NRCB policy states that approval officers will presume that an application is consistent with a LUB if the bylaw lists the proposed development as either a permitted or discretionary use (See Operational Policy 2016-7: *Approvals*, part 8.3).