

Decision Summary RA17021A

This document summarizes my reasons for issuing Registration RA17021A, an amended version of Registration RA17021, under the *Agricultural Operation Practices Act (AOPA)*. Additional reasons are in Technical Document RA17021A. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at www.nrcb.ca under Confined Feeding Operations (CFO)/CFO Search. My decision is based on the act and its regulations, the policies of the NRCB, the information contained in the application, and all other materials in the application file.

Under AOPA this type of application requires an amendment to an existing registration. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background and reasons for the amendment

On June 16, 2017, the NRCB issued Registration RA17021 to Ronald and Gloria Friesen, and The Light Standard Farm, which allowed the conversion of an existing swine confined feeding operation (CFO) into a chicken broiler CFO with 40,000 chicken broilers.

The registration permitted the constructing of a new broiler barn (76.2 m x 18.3 m), converting and expanding an existing farrowing swine barn into a broiler barn, and decommissioning an existing finisher barn and the existing earthen liquid manure storage (EMS).

The original construction completion deadline for the construction of these facilities was November 30, 2020. The construction completion deadline was extended on October 16, 2020, by two years to November 30, 2022.

At present, The Light Standard Farm has converted the existing swine barn into a broiler barn and decommissioned the finisher barn and EMS; however, they have not yet constructed the new broiler barn.

The Light Standard Farm applied for an extension of the completion deadline for the construction of the new poultry barn. The reasons for the delay were supply chain issues due to covid-19 and avian influenza, difficulty obtaining broiler lease quota, and inflationary costs of materials and labor.

The application for amendment was received on November 28, 2022, on January 5, 2023, I deemed the application complete. No other changes to the CFO are proposed.

Under AOPA, this type of application requires an amendment to a registration.

a. Location

The existing CFO is located at SE 22-40-25 W4 in Lacombe County, roughly 13 km east of the City of Lacombe. The terrain is undulating with a general slope to the south.

2. Notices to affected parties

Under section 21 of AOPA, the NRCB notifies (or directs the applicant to notify) all parties that are “affected” by a registration application. Section 5 of AOPA’s Part 2 Matters Regulation

defines “affected parties” as:

- In the case where part of a CFO is located, or is to be located, within 100 m of a bank of a river, stream or canal, a municipality entitled to divert water from that body within 10 miles downstream
- the municipality where the CFO is located or is to be located
- any other municipality whose boundary is within a ½ mile (805 m) from the CFO
- all persons who own or reside on land within the greater of ½ mile (805 m) or the minimum distance separation for the land on which the CFO is located

The land zoning on which the CFO is located would require a minimum distance separation of 178 metres. Therefore, the notification distance is ½ mile (805 m). (The NRCB refers to this distance as the “affected party radius.”)

A copy of the application was sent to Lacombe County, which is the municipality where the CFO is located.

The NRCB gave notice of the application by public advertisement in the Lacombe Express on January 5, 2023. The full application was made available for viewing during regular business hours and was posted on the NRCB website for public viewing. As a courtesy, 14 letters were sent to people identified by Lacombe County as owning or residing on land within the notification distance.

3. Notice to other persons or organizations

Under NRCB policy, the NRCB may also notify persons and organizations the approval officer considers appropriate. This includes sending applications to referral agencies which have a potential regulatory interest under their respective legislation.

Referral letters and a copy of the complete application were emailed to Alberta Environment and Protected Areas (EPA), Alberta Health Services (AHS), and Chain Lakes Gas Co-op Ltd.

I did not received responses from any of these organizations.

4. Alberta Land Stewardship Act (ALSA) regional plan

Section 22(9) of AOPA requires that an approval officer must ensure the application complies with any applicable ALSA regional plan.

There is no ALSA regional plan for the area where the existing CFO is located.

5. Municipal Development Plan (MDP) consistency

Lacombe County’s MDP has been amended since Registration RA17021 was issued, and therefore, I undertook a new consistency determination of the MDP. I have determined that the proposed construction deadline extension remains consistent with the land use provisions of Lacombe County’s municipal development plan. (See Appendix A for a more detailed discussion of the county’s planning requirements.)

6. AOPA requirements

With respect to the technical requirements set out in the regulations, the proposed construction deadline extension continues to meet all AOPA requirements (See Decision Summary RA17021 for details).

7. Responses from municipality and other directly affected parties

Directly affected parties are entitled to a reasonable opportunity to provide evidence and written submissions relevant to the application and are entitled to request an NRCB Board review of the approval officer's decision. Not all affected parties are "directly affected" under AOPA.

Municipalities that are affected parties are identified by the act as "directly affected." Lacombe County is an affected party (and directly affected) because the existing CFO is located within its boundaries.

Ms. Allison Noonan, a planning services administrative assistant with Lacombe County, provided a written response on behalf of the county. Ms. Noonan stated that the application is consistent with Lacombe County's municipal development plan (MDP), and that the county has no issues or concerns with the proposal. The application's consistency with Lacombe County's MDP is addressed in Appendix A, attached.

No responses were received from any other person, organization, or member of the public.

8. Environmental risk of facilities

The risks posed by The Light Standard Farm's CFO facilities were assessed in 2017. The assessment determined that the potential risks to surface water and groundwater posed by the facilities were low. Because there are no changes to the proposed development or the CFO site, a new assessment is not required.

9. Terms and conditions

Rather than issuing a separate "amendment" to Approval RA17021, I am issuing a new approval (RA17021A) with the required amendment. Approval RA17021A therefore contains all of the terms and conditions in RA17021, except the construction completion deadline for the permitted construction which has been extended to November 30, 2025.

Construction conditions from Registration RA17021 that have been met are identified in the appendix to Registration RA17021A. No new conditions are included in the registration.

10. Conclusion

Registration RA17021A is issued for the reasons provided above, in the attached appendix and in Technical Document RA17021A, and becomes effective immediately.

Registration RA17021 is therefore superseded, and its content consolidated into this Registration RA17021A, unless Registration RA17021A is held invalid following a review and decision by the NRCB's board members or by a court, in which case Registration RA17021 will remain in effect.

May 5, 2023

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

Appendix:

A. Consistency with the Municipal Development Plan

APPENDIX A: Consistency with the municipal development plan

Under Section 22 of AOPA, an approval officer may only approve an application for an amendment of a registration if the approval officer holds the opinion that the application is consistent with the “land use provisions” of the applicable municipal development plan (MDP).

This does not mean consistency with the entire MDP. In general, “land use provisions” cover MDP policies that provide generic directions about the acceptability of various land uses in specific areas.

Conversely, “land use provisions” do not call for discretionary judgements relating to the acceptability of a given confined feeding operation (CFO) development. Similarly, section 22(2.1) 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.”) “Land use provisions” also do not impose procedural requirements on the NRCB. (See NRCB Operational Policy 2016-7: Approvals, part 8.2.5.)

The Light Standard Farm’s CFO is located in Lacombe County and is therefore subject to that county’s MDP. Lacombe County adopted the latest revision to this plan on April 8, 2021, under Bylaw 1238/17. As relevant here:

Section 3.3.1 states that “All lands in the County shall be deemed to be agricultural lands unless otherwise designated by the Municipal Development Plan, an approved statutory or non-statutory plan, the Land Use Bylaw, or provincial legislation.”

I consider this section to be a procedural in nature and not a valid land use provision. However, it does provide insight for the interpretation of the remaining portions of the MDP and land use bylaw (LUB).

Section 3.9.1 of the county’s MDP states that the “County shall provide input on applications for confined feeding operations to the Natural Resources Conservation Board (NRCB) under the *Agricultural Operations Practices Act*. The county’s support is subject to the following:

- a) No new confined feeding operation shall be permitted less than 1.6 kilometres (1 mile) from the boundary of:
 - i) a town, village, summer village or hamlet;
 - ii) an area developed or designated for multi-lot residential use; or
 - iii) a provincial or municipal park or recreation area, or other area used or intended to be used for a recreational facility development, except that where provincial regulations require a larger setback distance, that distance shall apply.

Further restriction on the development of confined feeding operations may apply as directed by an Intermunicipal Development Plan or other local plan approved by Council.”

The Light Standard Farm’s application is for an extension of the construction deadline on an existing CFO; regardless the CFO is located outside any of these 1.6 km setbacks.

As for section 3.9.1's reference to intermunicipal development plans (IDP) or other plans approved by the county's council, this CFO is not located within lands identified as part of an IDP or any other plans.

For these reasons, I conclude that the application is consistent with the land use provisions of Lacombe County's MDP. This conclusion is consistent with the county's written response to the application.