



Minimum Distance Separation (MDS) Waivers

Fact Sheet

Permit applications and MDS 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.
- Applications that do not meet the MDS requirement may be denied.

Calculating MDS

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

The MDS formula includes the use of 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
- An MDS calculator is available on the NRCB website www.nrcb.ca
 - 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 **all** owners on title of the affected residence must complete, sign and date the waiver.
 - The residence owner(s) 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.
 - A copy of this Fact Sheet.
- When required, applicants should submit the signed waiver with their AOPA permit application.

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 (address(es), telephone number(s) and email address(es)) is redacted 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 initially proposed.

Conditional waivers

- If a waiver includes one or more conditions, the NRCB will determine whether the conditions are enforceable by the NRCB.
- 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. The NRCB will inform the applicant and the neighbour who signed the waiver that the waiver has been rejected.

Revoking a waiver

- MDS waivers for registration and approval applications may be revoked at any time before the deadline to submit responses. This date is set out in the official notice for the application.
- MDS waivers for authorization applications may be revoked at any time prior to the decision on the application being issued
- To revoke the waiver, the neighbour who signed the MDS waiver must provide written notice to the NRCB approval officer. The NRCB approval officer will notify the operator.

Directly Affected Party Status

- Residence owners who provide a MDS waiver for registration and approval applications, when one is required to meet the AOPA MDS requirements, are automatically considered to be directly affected parties for the application.
- Residence owners who provide a MDS waiver for authorization applications, are not considered to be directly affected parties for the application. AOPA specifies that the only directly affected parties for an authorization application are the applicant and municipality in which the development is proposed to take place.
- Residence owners who provide a MDS waiver for an application, when it is not required to meet the AOPA MDS requirements, are **not** automatically considered to be directly affected parties for the application as a result of submitting the waiver.

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
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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