



Province of Alberta

AGRICULTURAL OPERATION PRACTICES ACT

Revised Statutes of Alberta 2000
Chapter A-7

Current as of April 29, 2013

Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer
5th Floor, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952
Fax: 780-452-0668

E-mail: qp@gov.ab.ca
Shop on-line at www.qp.alberta.ca

- (a) “affected person” means, in Part 2, a person or municipality determined in accordance with the regulations to be an affected person;
- (a.1) “agricultural land” means
- (i) land the use of which for agriculture is either a permitted or discretionary use under the land use bylaw of the municipality or Metis settlement in which the land is situated or is permitted pursuant to section 643 of the *Municipal Government Act*,
 - (ii) land that is subject to an approval, registration or authorization, or
 - (iii) land described in an ALSA regional plan, or in a conservation easement, conservation directive or TDC scheme as those terms are defined in the *Alberta Land Stewardship Act*, that is protected, conserved or enhanced as agricultural land or land for agricultural purposes;
- (b) “agricultural operation” means an agricultural activity conducted on agricultural land for gain or reward or in the hope or expectation of gain or reward, and includes
- (i) the cultivation of land,
 - (ii) the raising of livestock, including domestic cervids within the meaning of the *Livestock Industry Diversification Act* and poultry,
 - (iii) the raising of fur-bearing animals, pheasants or fish,
 - (iv) the production of agricultural field crops,
 - (v) the production of fruit, vegetables, sod, trees, shrubs and other specialty horticultural crops,
 - (vi) the production of eggs and milk,
 - (vii) the production of honey,
 - (viii) the operation of agricultural machinery and equipment, including irrigation pumps,
 - (ix) the application of fertilizers, insecticides, pesticides, fungicides and herbicides, including application by ground and aerial spraying, for agricultural purposes,

- (x) the collection, transportation, storage, application, use, transfer and disposal of manure, composting materials and compost, and
- (xi) the abandonment and reclamation of confined feeding operations and manure storage facilities;
- (b.1) “apply manure, composting materials or compost” means to spread manure, composting materials or compost on agricultural land, or to spread manure, composting materials or compost on and to incorporate or inject manure, composting materials or compost into agricultural land;
- (b.2) “approval” means an approval under Part 2;
- (b.3) “approval officer” means a person appointed as an approval officer under Part 2;
- (b.4) “authorization” means an authorization under Part 2;
- (b.5) “Board” means the Natural Resources Conservation Board;
- (b.51) “compost” means a solid mature product resulting from composting but does not include compost to which the *Fertilizers Act* (Canada) applies;
- (b.52) “composting” means a managed process of bio-oxidation of composting materials, including a thermophilic phase;
- (b.53) “composting materials” means organic material generated by an agricultural operation described in clause (b)(ii), (iv), (v) or (vi), other than carcasses or parts of carcasses, and includes other substances permitted by the regulations;
- (b.6) “confined feeding operation” means fenced or enclosed land or buildings where livestock are confined for the purpose of growing, sustaining, finishing or breeding by means other than grazing and any other building or structure directly related to that purpose but does not include residences, livestock seasonal feeding and bedding sites, equestrian stables, auction markets, race tracks or exhibition grounds;
- (b.7) “development permit” means a development permit issued pursuant to Part 17 of the *Municipal Government Act*;

- (b.8) “generally accepted agricultural practice” means a practice that is conducted in a manner consistent with appropriate and accepted customs and standards as established and followed by similar agricultural operations under similar circumstances, and without restricting the generality of the foregoing includes the use of innovative technology used with advanced management practices;
- (b.9) “inspector” means a person appointed as an inspector under Part 2;
- (c) “land use bylaw” means a land use bylaw as defined in Part 17 of the *Municipal Government Act* or a bylaw respecting land use that is in effect in a Metis settlement;
- (c.1) “livestock” means poultry, horses, cattle, sheep, swine, goats, bison, fur-bearing animals raised in captivity and domestic cervids within the meaning of the *Livestock Industry Diversification Act*;
- (c.2) “manure” means livestock excreta, associated feed losses, bedding, litter, soil and wash water, but does not include manure to which the *Fertilizers Act* (Canada) applies;
- (c.21) “manure collection area” means the floor of a barn, the under-floor pits of a barn, the floor of a feedlot pen and a catch basin where manure collects but does not include the floor of a livestock corral;
- (c.3) “manure storage facility” means a facility for the storage of manure, composting materials and compost and a facility for composting but does not include such a facility at an equestrian stable, an auction market, a race track or exhibition grounds;
- (d) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (d.1) “ministry” means a department administered by a minister and any Provincial agency and Crown-controlled organization for which that minister is responsible;
- (d.2) “municipal development plan” means a municipal development plan within the meaning of the *Municipal Government Act*;
- (e) “nuisance” includes an activity that

- (i) arises from unreasonable, unwarranted or unlawful use by a person of the person's own property that causes obstruction or injury to the right of another person or to the public and produces such material annoyance, inconvenience and discomfort that damage will result,
 - (ii) creates smoke, odour, noise or vibration that interferes with the reasonable and comfortable use of a person's property, or
 - (iii) is found to be a nuisance at common law;
- (f) "owner or operator", when used with reference to an agricultural operation, means
- (i) the owner and previous owner of an agricultural operation or the land where it is or was situated,
 - (ii) every person who has or has had charge, management or control of an agricultural operation or the land where it is or was situated,
 - (iii) any successor, assignee, executor, administrator, receiver, receiver-manager or trustee of a person referred to in subclause (i) or (ii), and
 - (iv) a person who acts as the principal or agent of a person referred to in subclause (i), (ii) or (iii);
- (f.1) "parcel of land" means parcel of land as defined in Part 17 of the *Municipal Government Act*;
- (g) "practice review committee" means an agricultural practice review committee appointed under Part 1;
- (h) "registration" means a registration under Part 2;
- (i) "seasonal feeding and bedding site" means an over-wintering site where livestock are fed and sheltered;
- (j) "working days" does not include
- (i) Saturdays,
 - (ii) Sundays,

- (iii) New Year's Day, Alberta Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Labour Day, Remembrance Day and Christmas Day,
- (iv) the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning sovereign,
- (v) December 26, or when that falls on a Sunday or a Monday, then December 27,
- (vi) any day appointed by proclamation of the Governor General in Council or by proclamation of the Lieutenant Governor in Council for a public holiday or for a day of fast or thanksgiving or as a day of mourning, and
- (vii) with reference to any particular part of Alberta, the day in each year that may by proclamation of the Lieutenant Governor in Council be appointed as a public holiday for that part of Alberta for the planting of forest or other trees.

RSA 2000 cA-7 s1;2001 c16 s2;2003 c26 s19;
2004 c14 s2;2009 cA-26.8 s70;2013 cF-14.5 s17

Records

1.1(1) An owner or operator who is required to create, submit or retain records

- (a) by the regulations must do so in accordance with the regulations, or
- (b) by an approval, registration or authorization must do so in accordance with the approval, registration or authorization.

(2) A person shall not create, submit or retain a record that contains false or misleading information.

2001 c16 s3

Part 1 Nuisance

Nuisance claims

2(1) A person who carries on an agricultural operation and who, in respect of that operation, does not contravene

- (a) the land use bylaw of the municipality or Metis settlement in which the agricultural operation is carried on,
- (b) the regulations or an approval, registration or authorization, or
- (c) the generally accepted agricultural practice

is not liable to any person in an action in nuisance resulting from the agricultural operation and is not to be prevented by injunction or other order of a court from carrying on the agricultural operation because it causes or creates a nuisance.

(1.1) If subsection (1)(a) is contravened but the contravention is authorized by an approval, authorization or registration; the approval, authorization or registration prevails over the land use bylaw with which it conflicts.

(2) Subsection (1) continues to apply notwithstanding that one or more of the following occur:

- (a) the land use bylaw of the municipality or Metis settlement in which the agricultural operation is carried on changes;
- (b) the ownership of the agricultural land on which the agricultural operation is carried on changes;
- (c) the agricultural operation is carried on by other persons;
- (d) the use of land adjacent to the land on which the agricultural operation is carried on changes.

(3) Where a plaintiff or claimant in a proceeding against a person who carries on an agricultural operation

- (a) claims damages in nuisance resulting from the agricultural operation, or
- (b) applies for an injunction or other order of a court preventing or restricting the carrying on of the agricultural operation because it causes or creates a nuisance,

the onus of proving that the defendant contravened the land use bylaw, regulation, approval, registration, authorization or practice referred to in subsection (1) is on the plaintiff or claimant, as the case may be.

(4) In an action in nuisance against a person who carries on an agricultural operation, a court may

- (a) order the party that commenced the action to furnish security for costs in any amount the court considers proper;
- (b) award costs in the action.

RSA 2000 cA-7 s2;2001 c16 s4;2009 c53 s11

Application re disturbance

3(1) A person who is aggrieved by, or an owner or operator who is aware that a person is aggrieved by, any odour, noise, dust, smoke or other disturbance resulting from an agricultural operation may apply in writing to the Minister to request consideration of whether the disturbance results from a generally accepted agricultural practice.

(2) An application under subsection (1) must be in writing and must contain a statement of the nature of the disturbance, the name and address of the applicant, the location of the agricultural operation, the name and address of the owner or operator, if known, the name and address of the person who is aggrieved and the steps taken by the applicant, if any, to resolve the disturbance.

(3) The parties to an application are the applicant, the owner or operator or the person aggrieved and any other person the Minister considers appropriate.

(4) A person shall not commence an action in nuisance for any odour, noise, dust, smoke or other disturbance resulting from an agricultural operation unless an application has been made under this section with respect to the disturbance at least 90 working days previously.

2001 c16 s5

Referral

4 The parties to a referral to the Minister under section 38.1 are the Board, the owner or operator about whom the referral is made and any other person the practice review committee considers to be directly affected.

2001 c16 s5;2004 c14 s3

Practice review committee

5(1) On receipt of an application under section 3 or a referral under section 38.1 the Minister may

- (a) refuse to consider the application or referral if, in the Minister's opinion,