



BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD (BCFIRB)

Protection Under the Farm Practices Protection Act

FACT SHEET

Agriculture is an important BC industry. The *Farm Practices Protection (Right to Farm) Act (FPPA)*¹, balances community interests by both protecting farmers from disturbance complaints (e.g. noise, dust, odour), and by giving neighbours of a specific farm the right to formal conflict resolution through BCFIRB. Both non-farming and farming neighbours have the right to file a complaint.

While the FPPA allows complaints to be filed, BCFIRB encourages or mandates farmers and their neighbours to work together to resolve disputes in the first instance.

PROTECTION UNDER THE FARM PRACTICES PROTECTION (RIGHT TO FARM) ACT (FPPA)

Farmers are protected from certain bylaw enforcement, court injunctions² and lawsuits related to nuisance complaints (e.g. noise, dust, odour) providing they meet ALL of the following criteria:

- ✓ Engaging in a farm operation conducted as part of a farm business as defined by the *FPPA*, AND
- ✓ Using a “normal farm practice” as defined by the *FPPA*, AND
- ✓ Operating on protected land (Agricultural Land Reserve (ALR), or land on which the local government allows farm use, or Crown land designated as a farming area), AND
- ✓ The farm practice is not in contravention of the *Health Act*, *Integrated Pest Management Act*, or *Environmental Management Act* or their regulations, AND
- ✓ Is not in contravention of any land use regulation.

General Definitions

(See *FPPA* for full legal definitions)

Farm Business: Any business in which one or more farm operations are conducted. Includes farm education or research institutions.

Farm Operation: a) growing, producing raising or keeping animals or plants; b) clearing, draining, irrigating or cultivating land; c) using farm machinery, equipment, devices, materials and structures; d) applying fertilizers, manure, pesticides, and biological control agents; e) conducting any other agricultural activity on, in or over agricultural land.

Normal Farm Practice: A practice (including innovative practice) conducted by a farm business in a manner consistent with a) proper and accepted customs and standards as established and followed by similar farm businesses in similar circumstances, and b) any standards prescribed by Cabinet.

¹ The *Farm Practices Protection (Right to Farm) Act* can be downloaded from the BC Laws web site, which provides free public access to the current laws of British Columbia (<http://www.bclaws.ca/>), OR a copy may be requested from BCFIRB.
² An injunction is an order by a court for a person to do something, or stop doing something.



LOCAL GOVERNMENT BYLAWS

Bylaws

Where a farmer meets the above criteria and operates on ALR or designated Crown land, local governments cannot enforce their nuisance bylaws (such as animal and noise control or fireworks bylaws) against the farm.³ However, where the farmer operates on land where agriculture is a permitted use by the local government, the local government may be able to enforce its nuisance bylaws to limit some farm activities and practices even where the farm is following normal farm practice.^{4 5} Parties may wish to seek legal advice if they are subject to bylaw enforcement proceedings in these circumstances.

Farm Bylaws

Under the *Local Government Act* and with Ministerial approval, local governments can apply to Cabinet for the power to enact farm bylaws (a form of land use regulation) enforceable on ALR land and designated Crown land.⁶ Currently the Township of Langley, City of Abbotsford, Corporation of Delta and the City of Kelowna have enacted farm bylaws.

BCFIRB ROLE AND DECISIONS

BCFIRB is responsible for hearing complaints from persons aggrieved by odour, noise, dust or other disturbances arising from a farm practice(s) being carried out by a farm business.⁷ **BCFIRB only determines whether the farm practice causing the disturbance is a “normal farm practice”.** BCFIRB can:

- Decide the practice is a “normal farm practice”, and dismiss the complaint, OR
- Decide the practice is not a “normal farm practice”, in which case BCFIRB must order the farmer to modify the practice to be consistent with “normal farm practice”, or cease the practice altogether.

A finding that a particular practice is “not normal farm practice” exposes the farmer to potential nuisance claims regarding that practice. Further, if a farmer does not stop or modify the practice as ordered by BCFIRB in addition to losing the protection from nuisance claims and injunctions under the *FPPA*, there is also the possibility that:

1. Local government may be able to enforce their bylaws (e.g. noise, nuisance bylaws).
2. The party in whose favour BCFIRB makes an order⁸ may file a certified copy of the order with the BC Supreme Court and seek to enforce the order through contempt proceedings. Contempt of court⁹ may be punishable by fine or imprisonment. There is no time limit on filing a BCFIRB order with the BC Supreme Court.

³ Passed under the standard *Local Government Act* or the *Community Charter Act* provisions - see section *FPPA* 2(1))

⁴ Section 2(3) of the *FPPA*

⁵ *Alberni-Clayoquot Regional District v. Durmuller* 2013 BCSC 2533 (July 23, 2013)

⁶ See section 872 (definition of farming area) and sections 917 and 918 of the *Local Government Act*

⁷ BCFIRB’s responsibilities in relation to farm practices complaints arise from the *FPPA*.

⁸ or a person designated in the order.

⁹ Disobeying an order of the court or conduct that interferes with the administration of justice.