



BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD (BCFIRB)

ENFORCEMENT AND FARM PRACTICES

FACT SHEET

Agriculture is an important BC industry. Under the *Farm Practices Protection (Right to Farm) Act (FPPA)*¹, farmers using “normal farm practices” are protected from certain bylaw enforcement, court injunctions and lawsuits related to nuisance complaints. The *FPPA* balances community interests by both protecting farmers from disturbance complaints, 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 normal farm practices are protected under legislation, BCFIRB encourages farmers and their neighbours to work together to resolve disputes in the first instance.

Although there are many options for resolving disputes between farmers and neighbours, in some situations, enforcement regarding use of a farm practice which is causing a disturbance may be called for.

NOTE: This Fact Sheet only addresses enforcement in regards to farm practices that cause disturbance. For concerns regarding environment, health or other issues, please contact the BC Ministry of Agriculture.

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

Farmers are protected from certain bylaw enforcement, court injunctions and lawsuits related to nuisance complaints providing they meet 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, or land on which the local government has zoned for agriculture, or Crown land designated as a farming area), AND
- The farm practice is not breaching the *Health Act*, *Integrated Pest Management Act*, or *Environmental Management Act* or their regulations, AND
- Is not contravening 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.



LOCAL GOVERNMENT BYLAWS - ENFORCEMENT

Bylaws

If a farmer meets all of the above criteria in the *FPPA*, local governments are not legally entitled to enforce bylaws passed under the standard *Local Government Act* or the *Community Charter Act* provisions for dealing with animal control, noise control, nuisance control or fireworks.

Farm Bylaws

Under the *Local Government Act*, local governments can apply to Cabinet to be designated the power to enact farm bylaws (a form of land use regulation). Farm bylaws related to disturbance (e.g. noise bylaw, nuisance bylaw) override the protection of the *FPPA* and can be enforced by local governments. Farm bylaws must be enacted under s.917 of the *Local Government Act* to be enforceable. Currently the Township of Langley, City of Abbotsford, Corporation of Delta and the City of Kelowna have been designated the ability to enact, and hence enforce, farm bylaws.

BCFIRB DECISIONS - ENFORCEMENT

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.² BCFIRB 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 this case BCFIRB can order the farmer to modify the practice to be consistent with “normal farm practice”, or order the farmer to 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 cease 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 order³ may file a certified copy of the order with the BC Supreme Court and seek to enforce the order through contempt proceeding. Contempt of court⁴ may be punishable by fine or imprisonment. There is no time limit on filing a BCFIRB order with the BC Supreme Court.

While normal farm practices are protected under legislation, BCFIRB encourages farmers and their neighbours to work together to resolve disputes.

² BCFIRB's responsibilities in relation to farm practices complaints arise from the *FPPA*.

³ or a person designated in the order,

⁴ Disobeying an order of the court or conduct that interferes with the administration of justice.