



BC Farm Industry Review Board

Shellfish Aquaculture Management
Advisory Committee Meeting
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British Columbia
Farm Industry
Review Board



BC Farm Industry Review Board (BCFIRB)

Independent Administrative Tribunal.

Supervision Role - of supply managed and regulated agricultural commodity boards in BC – ensuring sound marketing policy in the public interest.

Signatory to federal-provincial agreements.

Quasi-Judicial Role - hearing and making decisions on regulated marketing appeals, farm practices complaints, SPCA animal custody appeals.



BCFIRB and Ministry of Agriculture

1. BCFIRB is independent in its decision-making – tribunal arms-length from government.
2. BCFIRB is accountable to government for its operations and budget - works to government's Taxpayer Accountability Principles.
3. Ministry is responsible for overarching policy and legislation.
4. BCFIRB takes broad policy direction of government into consideration.



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Tribunal Role

- Appeals on decisions of commodity boards.
- Complaints from persons aggrieved by odour, noise, dust or other disturbances arising from agriculture or aquaculture operations - **Farm Practices Protection (Right to Farm) Act.**
- Appeals of SPCA decisions to take custody or dispose of an animal and/or costs.
- About 40-65 cases on per year - NPMA (50-60%); FPPA (20%); PCAA (20-30%).



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Farm Practices Protection (Right to Farm) Act - FPPA

FPPA established in BC in 1996 (similar legislation in some other provinces).

Increasing rural-urban interface

BCFIRB mandate:

- Hears complaints from persons aggrieved by nuisance/disturbance arising from farm operations
- Studies on farm practices



Purpose of FPPA

- Balance of community interests
- Protects farmers from certain bylaw enforcement, court injunctions and lawsuits related to nuisance complaints (e.g., noise, dust, odour) provided they meet all of the criteria set out in the FPPA
- Provides neighbours of a specific farm the right to formal conflict resolution through BCFIRB
- BCFIRB has no jurisdiction over issues regarding the environment, health or pollution

COMPLIANCE
INSPECTIONS
REPORT
2015

Environmental Management Act

FPPA Criteria for Protections to Apply

- Farm operation conducted as part of a farm business.
- Farm operation is conducted in accordance with normal farm practices.
- Operating on agricultural land as defined in the Act (e.g., ALR, local government designation, licensed for aquaculture, etc.).
- Farm practice is not in contravention of health or environmental legislation or any land use regulation.



BCFIRB Jurisdiction

- BCFIRB makes determinations as to whether odour, noise, dust or other disturbance results from a “normal farm practice”.
- The complaint must not be trivial or vexatious – must be made in good faith.
- FPPA criteria apply – farm operation must be conducted as part of a farm business, on agricultural land and not in contravention of laws.

What is Normal Farm Practice?

Under FPPA, it's a practice consistent with:

- Proper and accepted customs and standards as established and followed by similar farm businesses under similar circumstances; and
- Standards prescribed by the Lieutenant Governor in Council (Cabinet).



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Aquaculture Farm Operations

- New Fish and Seafood Act – January 1, 2017.
- Specialty Farm Operations Regulation under FPPA defines two types of aquaculture as farm operations, that fall under FPPA / BCFIRB jurisdiction:
 1. Licensed activity under the federal Pacific Aquaculture Regulations – DFO - marine fin fish operations, shellfish operations, etc.;
 2. Licenses issued under the provincial Fish and Seafood Licensing regulation (growing of aquatic plants for human consumption).

Knowledgeable Person (KP)

- A KP is a person that can be retained by BCFIRB to provide expert knowledge to support complaint process.
- Can be from industry, Ministry of Agriculture staff, or an independent consultant.
- Once a KP is engaged by BCFIRB, a site visit of the properties is scheduled.
- Prepares a written report that is used to assist in reaching a settlement or used at a hearing – can help BCFIRB determination of “normal farm practice” as part of a hearing.



Dispute Resolution

- BCFIRB promotes, where suitable, early dispute resolution through mediation, facilitation or other processes.
- Encourages farmers and their neighbors to work together to resolve disputes.
- Can require parties to participate in a mandatory facilitated settlement.



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BCFIRB Decisions

- After a hearing process, BCFIRB will either:
 - Dismiss the complaint if the farm operation is determined to be following normal farm practices
 - Order the farmer to stop or change their practices if the farm operation is deemed not to be following normal farm practices
- **BCFIRB decisions are final and conclusive but may be appealed to the BC Supreme Court**



Appeals of BCFIRB Decisions

- 60 days to appeal a BCFIRB farm practices complaint decision to the BC Supreme Court.
- A Notice of Appeal cannot simply challenge a BCFIRB decision as being wrong:
 - it must prove that BCFIRB made an error on a question of law or jurisdiction.

Enforcement of FPPA Decisions

- If something is not a “normal farm practice”, local governments may enforce its bylaws (e.g., noise or nuisance bylaws) and the farm can be subject to lawsuits or injunctions.
- A FIRB order can be filed with the Supreme Court and if a farmer continues to use the practice that FIRB ordered them to modify or stop, they can be found in contempt of court
– and may result in fine or imprisonment



Very Special Thanks to:

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Questions?



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