

The Manitoba Farm Industry Board and *The Farm Practices Protection Act*

The Farm Practices Protection Act

The Farm Practices Protection Act protects farmers from liability in nuisance for any odour, noise, dust, smoke or other disturbance resulting from the agricultural operation, if the farmers use normal farming practices and do not violate:

- land use control law
- *The Environment Act*
- *The Public Health Act*

It also protects neighbours against any nuisance (disturbance) from unacceptable farm practices. The act is administered and enforced by the Manitoba Farm Industry Board.

This fact sheet will answer some of the most commonly asked questions about the legislation and the Manitoba Farm Industry Board.



Frequently Asked Questions (FAQs)

What is the purpose of the act?

The Farm Practices Protection Act establishes a process for reviewing, and providing mediation, for nuisance disputes or disagreements that come from practising legally established agricultural operations. The act is intended to:

- protect agricultural operations, carrying out their activities in a normal manner, from nuisance lawsuits
- change farming practices that cause unacceptable disturbances to neighbours and are not considered normal farm practices

How is a normal farm practice defined and decided?

Normal farm practice is defined in the act as one that is:

“conducted in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations under similar circumstances, and includes the use of innovative technology used with advanced management practices, and in conformity with any standards that are prescribed by regulations.”

In every case, the Manitoba Farm Industry Board has the power to decide what a normal farm practice is. Farm practice complaints received by the board are investigated by representatives from Manitoba Agriculture, Food and Rural Development.

Are all similar farm practices considered in the same way, in all areas?

No. The specific details of every operation and complaint will be different. The board will consider not only the type of farm operation and practices followed, but also each particular situation. This could include the physical setting (ex: topography, vegetation, winds), land use/planning setting (ex: plans, zoning, neighbours), the history of land development in the area and the history and nature of the complaint.

What would happen without a farm practices protection law?

Without a farm practices protection law, all nuisance complaints about farm practices would be dealt with by the courts. Factors like standards, acceptable farm management practices and new, innovative equipment and technology, may not be given the proper consideration in rulings on farm complaints. The legislation ensures that agricultural issues will be actively considered when complaints about farm practices are deliberated.

What is the benefit of establishing the board?

The board provides a quicker, less expensive and more effective way to resolve farm practice complaints than lawsuits. The board may also succeed in creating an understanding of farm operations that hadn't existed before. As well, it may bring about changes that have shared benefits for all concerned, without the conflict and unnecessary expense of the court.

Who is on the board?

The board is made up of members appointed by the Lieutenant-Governor in Council. The board chair may establish panels, each made up of one or more board members, to determine matters before the board.

What powers does the board have?

The board will consider every complaint and decide whether the farm practice is normal as defined by the act. The board may investigate situations, gather evidence, hold hearings and rule on whether farm practices are acceptable under the nuisance definition. It can dismiss a complaint if it concerns a normal farm practice. The board can order the owner or operator of the agricultural operation to cease the practice if it is not a normal farm practice or to modify the practice to be more consistent with normal farm practices.

Will the board deal with all complaints about farm operations?

No. It will handle only complaints about odour, noise, dust and other such disturbances from farm practices. It will not deal with pollution issues, erosion problems, humane treatment of animals or other non-nuisance items. Likewise, the board will not consider matters concerning the siting/location of new operations, which are the responsibility of local governments.

Can board decisions be appealed?

Yes. Either party to a complaint may appeal a decision on a question of law (process) to the courts within 30 days after the order has been made.

Can the board review a previously issued order against an agricultural operation?

Yes. The board may review an order it has made, upon application from a party or another person affected by the order, as long as the order is not being challenged on a question of law.



What happens if board orders are not followed?

The board may file its order with the courts and have the order enforced as a court order. Failure to comply with such an order could result in contempt of court action. A board order may also be used as evidence against a farm practice and farm operation in any court proceedings that follow, based on the common law of nuisance.

If a board order is not followed, the farm practice and farm operation could be subject to court-enforced remedies, and could be liable for further action under other environmental and health protection legislation.

Complaints Procedure

Who may send a complaint to the board?

Anyone upset by odour, noise, dust or other disturbances from an agricultural operation may complain to the board. The person complaining must be someone directly affected by the disturbance (ex: a nearby neighbour).

How is a complaint filed with the board?

A complaint to the board must be in writing, stating:

- the nature of the complaint
- the name, address and location of the farm operation
- the address of the complainant (the person making the complaint)

Must a complaint about a farming practice go to the board instead of going directly to court?

Yes. Complainants may not undertake a nuisance action in court unless they have applied to the board, in writing, at least 90 days earlier, to find out whether a farm practice is normal.

Other Environmental, Health and Land Use Laws

How does other planning, environmental and health legislation relate to *The Farm Practices Protection Act*?

The act requires agreement with existing planning, environmental and health laws, as well as local bylaws. For example, pollution of water is dealt with under *The Environment Act*. *The Farm Practices Protection Act* works together with other legislation.

Does the act protect farm operations from municipal bylaws that restrict farm practices?

No. The rights and powers of local municipalities to plan and enact bylaws cannot be changed by the legislation. As ratepayers, farmers are responsible for being involved in the planning and decision-making of their local municipalities. This will ensure that farmers' interests are reflected in municipal council decisions that affect their future.

The planning processes and bylaw changes that follow, will apply to future expansion, establishment and management of farming operations. Those plans and bylaws may not be retroactive for existing operations. Operations that legally exist may continue to operate and be given protection, even though conditions and laws may change around them. A change of owner or manager of a farm operation does not change its status under this act.

For more information

You may contact the Manitoba Farm Industry Board at:

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