

## APPENDIX 1 - Regulations

There are numerous municipal, federal, and provincial acts and bylaws that regulate what you can do on your farm. Below is some information on a few regulations that should be considered when setting up a nursery. This is not an all inclusive listing.

### FEDERAL REGULATIONS

**Customs Act:** The Act governs the importation and exportation of goods in and out of Canada. The Act also regulates the transportation, movement and storage of goods. A certificate of origin is required for all goods being imported into Canada and goods being exported to the US. For detailed information on the required documentation for import and export shipments, visit the [importsource.ca](http://importsource.ca) or [exportsource.ca](http://exportsource.ca) website. There is a toll-free information line for exporters at 1-888-811-1119.

**Excise Tax Act (GST):** Legislates taxes payable on goods and services sold within Canada (Goods and Services Tax). Individuals or businesses operating in Canada with worldwide annual revenues from taxable supplies of goods and services over \$30,000 are required to register for GST with the Canada Revenue Agency (CRA), and collect and remit GST on sales made within Canada. Registration is voluntary for business with annual revenue below \$30,000 but may be beneficial in order to receive input tax credits on business purchases made. For more information on GST registration contact the CRA at 1-800-959-5525, or [online](#).

**Fisheries Act:** The Fisheries Act is federal legislation established to protect Canada's fisheries resources and supporting habitats. It applies to all Canadian waters, including ditches, streams, marshes, rivers, lakes, estuaries, coastal waters and marine offshore areas. The Act also applies to seasonally wetted fish habitat such as shorelines, stream banks, flood plains, intermittent tributaries and privately owned land.

The habitat protection provisions of the Fisheries Act are of particular interest to farmers. These sections prescribe that no one may carry out a work or undertaking that results in a harmful alteration, disruption or destruction of fish habitat, unless it has been authorized by Department of Fisheries and Oceans (DFO). The Act also prohibits the deposit of harmful substances into waters containing fish, such as fertilizers, pesticides, manure, sediment, etc.

Farmers should contact DFO before working in any watercourse to help determine the requirements that may apply to a specific project. To locate the DFO office nearest you refer to the blue pages of your local telephone directory under Fisheries and Oceans Canada.

**Migratory Birds Convention Act:** This Act is designed to protect migratory birds that inhabit Canada during part or all of the year. There are provisions in the Act covering when and where birds may not be killed or captured or their nests or eggs disturbed.

Although migratory birds may damage agricultural lands, it is an offence under the Act to release substances which may harm them.

**Pest Control Products Act:** The intent of the Act is to ensure the safety, merit and value of pest control products used in Canada. It focuses on the protection of human health and the environment, and product performance.

Under the Act, a control product is defined as any product, device, organism or substance that is manufactured, represented, sold or used to control, prevent, destroy, mitigate, repel or

attract pests. The term pest includes any injurious, noxious or troublesome insect, fungus, bacterial organism, virus, weed, rodent or other plant or animal pest. Products regulated under the Act include herbicides, fungicides, insecticides, biological agents such as bacteria and viruses, antimicrobial agents, growth regulators, wood preservatives and water purification products.

All pest control products used or imported into Canada must be registered in Canada.

**Plant Breeders' Rights Act:** Governs the rights to propagate, or sell for the purpose of propagation, new varieties and cultivars of plant material that have been registered with the Plant Breeders' Rights Office, for a period of up to 18 years. For specific information on which cultivars or varieties are protected by the Act contact the Canadian Ornamental Plant Foundation.

**Plant Protection Act:** The purpose of this Act is to protect plant life and the agriculture and forestry industries by preventing the importation, exportation and spread of injurious pests and by providing for their control and eradication as well as the certification of plants and other things.

Regulations under the Act restrict the movement of plant material worldwide. There are also provincial acts that regulate the movement of nursery stock to prevent the spread of pests. The *BC Nursery & Landscape Pest Management & Production Guide* provides information on plants that have movement restrictions due to the provincial and federal regulations. Contact the [Canadian Food Inspection Agency](#) (CFIA) for more information about movement restrictions and phytosanitary requirements of nursery stock.

**Domestic Shipments** - Some areas in Canada are classified as a 'regulated region', due to the presence of a regulated pest. Nursery stock to be shipped from a regulated to a non-regulated area requires a domestic movement certificate. A certificate is issued based on an inspection of the stock by the CFIA. For some regulated pests, there are specific management practices that must be implemented for stock to qualify for a movement certificate.

**Export Shipments** - A phytosanitary certificate from the CFIA is required for all export shipments. This document is an assurance that the plants are free of quarantine pests and substantially free of other pests. Export certification is a quarantine requirement of importing countries.

**Import Shipments** - An import permit is required to import nursery stock into Canada from any country, with the exception of the continental US. An import permit is required for nursery stock from the continental US only where there are specific quarantine regulations governing their movement. Permits are often issued for a three year period. Permit application forms are available from the CFIA. A phytosanitary certificate issued by the exporting country is required in most cases, as described above.

The Act also provides for the monitoring of pests. It obligates anyone discovering a pest, in an area where the pest has not previously been known to exist, to notify Agriculture and Agri-Food Canada immediately and provide a specimen of the pest.

## PROVINCIAL REGULATIONS

**Assessment Act:** BC Assessment is responsible for classifying and determining the market value of all properties in British Columbia. This information is used by taxing authorities to set property taxes.

Property taxes are usually based on market value. However, the value of farm land (Class 9 land) is based on agricultural productivity of the land. Land productivity is calculated from a commissioner rate formula. Based on this formula, the maximum value of 'farm class' land is about \$10,000/ha, which is well below the market value. Therefore, the farm land classification significantly reduces the property taxes assessed.

To be classified as farm land, the property must produce primary agricultural products for sale such as a crop or livestock. Classification of farm status of an operation is made by the BC Assessment on the basis of land area and annual gross income from primary production.

Contact the BC Assessment Authority (in the white pages of your telephone directory) for information on obtaining farm class status. The BC Assessment Authority can also be reached on the [Internet](#):

**Commercial Transport Act:** Covers the registration, licensing and operation of commercial vehicles. Its goal is to ensure public safety. Provisions under the Act cover vehicle and load size, weight, projections and overhangs. Under the Act, the police and appointed inspectors can prohibit the operation of any vehicle they feel is unsafe.

**Drainage, Ditch and Dyke Act:** Establishes a system for the regulation and authorization of ditches, watercourses, drainages, and dykes throughout the province.

**Drinking Water Protection Act:** Prohibits contaminating drinking water by introducing or causing anything to be introduced into a domestic water system, a drinking water source, a well recharge zone or an area adjacent to a drinking water source.

**Electrical Safety Act:** Outlines the duties and responsibilities of owners and occupiers of structures in which electrical equipment is used. It also outlines what is required of contractors and employees designing, installing, testing and using electrical equipment.

**Employment Standards Act:** Governs payment of wages, hours of work, breaks, and termination of employees, and employers' record keeping obligations. A guide to the Employment Standards Act is available from the [Ministry of Skills Development and Labour, Employment Standards branch website](#).

Employment Standards Inquiries:

Ministry of Skills Development and Labour  
PO Box 9594  
Stn Prov Govt  
Victoria, BC  
V8W 9K4  
Tel: (250) 356-1487  
General inquiries  
Toll Free: (800) 663-3316  
(250) 612-4100 in the Prince George area

**Environmental Management Act:** The Act is responsible for controlling pollution in BC. The Act defines pollution as “the presence in the environment of substances or contaminants that substantially alter or impair the usefulness of the environment”. Under the Act, agricultural waste must not be directly discharged into a watercourse or ground water. Regulations in the Act also address specific issues including agricultural waste control, open burning smoke control, compost production and use, petroleum storage, chemical waste control, and spill reporting.

If agricultural wastes are handled on the farm in accordance with the [Code of Agricultural Practice of Waste Management](#), the operation is exempt from holding a waste management permit.

The *Environmental Farm Plan Reference Guide* supports the Code, and provides the industry with various options for managing farms in an environmentally sound manner, without contravening Federal or Provincial environmental laws or regulations.

**Farm Practices Protection (Right to Farm) Act:** The fundamental policy of the Act is that farmers have a right to farm in BC, particularly in the Agricultural Land Reserve, provided they use ‘normal farm practices’ and follow other legislation listed in the Act. The Act stipulates that farm operations must abide by regulations in the Health Act, Pesticide Control Act, and Waste Management Act.

The Act also amends the Municipal Act and Land Title Act to encourage local governments to support farming by ensuring local bylaws reflect provincial standards for farming.

The Act also establishes an improved complaint resolution process for people who live near farms and have concerns about farm practices which create dust, odour, noise or other disturbances.

**Fish Protection Act:** Fish and fish habitat are protected by rules established in relation to water licenses on “sensitive streams” where the sustainability of fish habitat is at risk. The Act allows the provincial government to establish directives for local governments in preserving streamside areas from residential, commercial and industrial development.

**Health Act:** Safeguarding the health of British Columbians is the focus of this Act. The Act regulates farm practices that may result in a health hazard. Such hazards can occur when nutrients, contaminants or pathogens are discharged into or on to land, water or air. Ref use, unpurified sewage, and other substances may not be discharged to the environment.

Specific regulations cover removal of health hazards, sanitation standards in public buildings, ventilation, sewage handling, and water and food safety. Agritourism and destination nursery businesses also need to consider the Act’s regulations concerning food service facilities that may be part of the operation.

**Highway Act:** The purposes of this Act are to ensure travel on highways is safe and to protect BC’s transportation infrastructure. Under the Act, it is an offence to place or leave any material on public roads. This includes offensive substances (such as mud or manure), containers, and other debris.

Signs and mail boxes cannot be erected without a permit from the BC Ministry of Transportation and Highways. To obtain a sign, a roadside vendor must provide safe access and sufficient parking. Lights which distract motorists are forbidden.

Ditches, culverts, or flumes cannot be changed or installed without permission. The ministry may impose load restrictions limiting the size and weight of agricultural vehicles on certain roads.

**Motor Vehicle Act:** The purpose of the Act is to protect people traveling on public roads. Specific provisions cover the movement of farm equipment on public roads. Farmers may drive, propel, draw and move implements of husbandry on certain roads. They may also carry farm products, supplies, stock, fertilizer, seed, and tools in trailers. Slow moving vehicles may not impede other traffic.

The Act regulates the distance at which signs can be erected from highways in rural areas of British Columbia, as well as light emissions and reflections which may affect visibility on the highway. Other provisions cover the parking of vehicles along highways and the use of vehicles along highways to sell produce.

Specific regulations cover the location of cattleguards, fences and gates.

Under the Act it is an offence to dump or deposit any “noisome, noxious or offensive matter” on a highway or right-of-way.

**Integrated Pest Management Act:** This Act establishes a regulatory regime for the control of pesticides. The Ministry of Environment is responsible to license and certify sales, purchases and the use of pesticides in the Province. The Act also regulates storage, disposition and transportation of pesticides. Applicators and sellers of pesticides are required to undergo training and certification. To obtain a certificate you must pass the provincial Pesticide Applicator Exam. Courses are offered at some community colleges to prepare applicants for the exam, and study kits including reading material and videos are available for learning the exam material.

For information on how to apply to write the Pesticide Applicators exam, in Greater Vancouver contact Kwantlen University College, Assessment and Testing Service at (604) 599-3100 or toll free at (877) 272-7122. Outside Greater Vancouver, contact Administrator, Pesticide Examinations, Government Agent Office in Nelson at (250) 354-6585 or toll free at (866) 205-2102. Courses are currently offered at: Kwantlen University College, University College of the Fraser Valley, and other select locations.

**Plant Protection Act:** The Act provides for the prevention of the spread of pests destructive to plants in British Columbia. It gives inspectors the power to enforce provisions in the Act, including the establishment of quarantine areas. This Act is the provincial counterpart to the federal Plant Protection Act. The BC Plant Protection Advisory Council helps enforce the Act by advising provincial and federal officials of potential insect, plant disease, weed and other hazards.

**Safety Standards Act:** The purpose of this Act is to ensure boiler and pressure vessel safety in British Columbia. The Act outlines the responsibilities of boiler, pressure vessel and refrigeration equipment owners and qualifications needed by personnel operating it. Specific regulations cover the design, construction, installation, inspection, operation, condition, alteration maintenance, transportation, repair, testing, sale and exchange of boilers, pressure vessels, pressure piping, fittings and refrigeration equipment.

**Social Services Tax Act:** Social Services Tax, or PST, is applicable to most products sold in the province of BC. Any business selling taxable goods at retail is required to register as a vendor with the Consumer Taxation Branch, Ministry of Finance and Corporate Relations, and collect

and remit social service tax (retail sales tax) on taxable sales. For more information and to register as a vendor contact:

Ministry of Finance and Corporate Relations  
Consumer Taxation Branch, Vancouver  
500-605 Robson Street  
Vancouver, BC V6B 5J3  
Tel: (604) 660-4524  
Fax: (604) 660-1104  
[Website](#)

In BC, bona fide farmers are exempt from paying social services tax on certain purchases intended for farm use. Tax exemptions include supplies, such as fertilizer, growing medium and fuel, and purchases of capital assets such as tree diggers and irrigation equipment.

Coloured fuel and propane may be purchased PST exempt for vehicles used entirely for farm business use. A Family Farm Truck Emblem may be obtained to purchase PST exempt fuel for vehicles that are used for farm and restricted personal use.

For a complete list of tax exempt nursery purchases and details on obtaining a Family Farm Truck Emblem refer to the Ministry of Provincial Revenue's bulletin SST 023 - Bona Fide Farmers: Social Service Tax Act, Motor Fuel Tax Act, and bulletin SST 088, Greenhouses, Nurseries, and Garden Stores, available [online](#) at or call the Consumer Taxation Branch toll free at (877) 388-4440 (604 660-4524 in Vancouver area) to receive a copy by fax or mail.

**BC Farm Identity Card** - To claim farmers' provincial sales tax exemption, farm businesses must obtain a BC Farm Identity Card which identifies them as a bona fide farmer. A "bona fide farmer" means a person who holds or leases land classified as farm land under the provisions of the Assessment Act of BC. Once bona fide farmer status has been established, a refund may also be obtained for tax paid on applicable farm purchases for the previous two years.

All bona fide BC farmers are eligible for the BC Farmer Identity Card. For details on how to obtain a BC Farmer Identity Card contact the BC Agriculture Council. The Council also has an information page and application form [online](#).

**Soil Conservation Act:** The Act is intended to protect soil on land in the Agricultural Land Reserve by regulating its removal and the placement of fill. Removal or deposit of fill on land requires the approval of the local government authority and a permit from the Agricultural Land Commission. The Commission sets terms and conditions on the quantities of earth involved, how the work is to be undertaken, and the restoration required to return the land to a condition fit and suitable for agriculture.

**Transport of Dangerous Goods Act:** Establishes requirements to provide for the safe transport of goods deemed to be dangerous. Under the Act, all safety requirements must be met and all dangerous goods and vehicles transporting dangerous goods must be appropriately marked. Regulations specify which substances and organisms are dangerous and establish classes of dangerous goods. They are: (1) explosives, (2) gasses, (3) flammable and combustible liquids, (4) flammable solids, (5) oxidizing substances, (6) poisonous and infectious substances, (7) radioactive materials, (8) corrosives, and (9) miscellaneous products, substances or organisms dangerous to life, health, property or the environment.

**Weed Control Act:** The purpose of the Act is to protect our natural resources and industry from the negative impacts of noxious weeds. It is an offense under the Act to sell nursery stock that contains a noxious weed, or a propagative part of a noxious weed.

**Worker's Compensation Act:** The Industrial Health & Safety Regulations of the WCB cover a broad range of issues regarding worker safety. A requirement of the regulations is the implementation of an industrial health and safety program at the workplace.

Four sets of health and safety regulations cover BC companies, large and small:

- a) Occupational Health and Safety Regulations establish minimum health and safety requirements.
- b) WCB Occupational First Aid Regulations outline the first aid services and equipment employers must provide.
- c) Workplace Hazardous Materials Information System regulations cover hazardous substances and the information that must be provided.
- d) Occupational Environment Regulations cover work conditions such as illumination, atmospheric contaminants and ventilation in factories, shops and offices.

Registration is required for all employers and a premium is payable based on wages and an assessed rate to provide WCB insurance coverage for workers. Individuals operating as a proprietorship are not required to register with WCB but may opt for the Optional Personal Protection.

The [Farm and Ranch Safety and Health Association](#) (FARSHA) will assist producers to follow BC's Occupational Health and Safety Regulations for Agriculture. FARSHA is a non-profit organization that is dedicated to reduce the incidence of injuries and accidents on BC farms and ranches. They also provide resource materials, presentations, assistance in establishing safety committees, and on-site health and safety reviews.

**Water Act:** This Act creates a system for the regulation of the Province's fresh water systems. A license must be obtained before using, storing or diverting surface water or making changes in or about a stream.

## **MUNICIPAL REGULATIONS**

Municipalities have bylaws to deal with greenhouse site coverage, building codes, woodwaste deposition, storm water management plans, boiler emissions, and setbacks from property lines and water courses.

Municipalities also have zoning bylaws that restrict the type of development permitted on a parcel of land. While checking on the zoning of property you are interested in purchasing, inquire about future municipal plans for the area. Plans for large roadways or subdivisions may already be in the works.

Contact the municipal government for more specific information on bylaws that will pertain to your nursery.