



# Report <sup>#3</sup>

## *A Legislative Guidebook to Invasive Plant Management in BC*





This document is intended to provide guidance to land managers and stakeholders in British Columbia who are already engaged in invasive plant management or considering becoming involved.

## Executive Summary

Invasive plants are often cited, and generally accepted, as the largest threat to global biodiversity after habitat destruction. Successful invasive plant management in BC will require coordinated planning among all land managers and stakeholders, as well as adequate, stable levels of investment for management.

The Invasive Plant Council of British Columbia (IPCBC) was established to provide province-wide coordination for invasive plant management. The IPCBC is guided by the *Invasive Plant Strategy for British Columbia*, a process-oriented document that complements and supports ongoing activities in invasive plant management in BC. The IPCBC's Regulation, Compliance, and Enforcement Committee was formed to address two of the key actions outlined in the *Invasive Plant Strategy for British Columbia*: to aim for improved compliance with existing policy and to recommend legislative and regulatory changes where compliance has been unsuccessful. The Legislative Guidebook was developed to address these key Council actions.

In British Columbia, there are multiple levels of authority with jurisdiction over invasive plant management. This network of jurisdictions can be very confusing to land managers, because there are often multiple agencies and governments controlling invasive plants on adjoining land parcels. To further compound the issue of overlapping agency jurisdiction, there are numerous pieces of legislation, regulation, and policy that govern invasive plant management in BC. As a result, it is often unclear to land managers which legislation is in effect and how they are to comply with that effective legislation, especially when more than one Act or Regulation is in effect.

In October of 2005, the IPCBC completed a survey that included all levels of Canadian government, industry, non-profit organizations, and the private sector. The survey identified a strong need for clarification of the existing legislative framework in order to improve voluntary compliance. As a result of this survey, the IPCBC initiated the development of the Legislative Guidebook and associated modules (See **Figure 1, Section 2.0**), which are intended to:

- Clarify the existing legislative framework governing invasive plant management in BC;
- Illustrate the issue of land tenure and agency jurisdiction in BC;
- Provide the tools necessary to understand and voluntarily comply with the existing legislative framework, thereby improving compliance; and
- Empower land managers to undertake informed invasive plant management.

Achievement of the above objectives will improve education of land managers and increase the coordination of invasive plant management in BC. Further, a voluntary increase in compliance, created as a result of clarification of the existing legislative framework, could potentially reduce the need for enforcement activities throughout BC. Voluntary compliance is therefore strongly recommended.

## Acknowledgments

This Guidebook was prepared by the Regulation, Compliance, and Enforcement Committee of the Invasive Plant Council of BC. The Council wishes to thank Committee members, Glennis Lewis (Health Canada), and participating agency staff for their contributions to the Legislative Guidebook.

## Points for Consideration

### Terminology

Each Act, Regulation, policy, and guiding document described within the Guidebook was developed with a specific focus in mind and, as such, the use of terminology is variable between and among components of the legislative framework. This section explains the use of varied terminology in an effort to provide clarity to readers using the Guidebook.

The term **invasive plant** in this Guidebook refers to any invasive alien plant species that has the potential to pose undesirable or detrimental impacts on humans, animals, or ecosystems. Invasive plant is used throughout the Guidebook as a general term that includes all species listed as noxious, invasive, or alien invasive in federal, provincial, or local regulations. Invasive plant is also a legislative designation for those species listed under the *Forest and Range Practices Act's Invasive Plants Regulation*.

Invasive plants have the capacity to spread and establish quickly and easily on new sites. They have widespread negative economic, social, and environmental impacts. Many invasive plants in British Columbia were introduced to North America, and may also be referred to as non-native, exotic, or alien plant species. For the purposes of this Guidebook, the term **alien** refers to any plant species that is not native to British Columbia, or a region within the province.

The term **noxious weed** is a legislative designation reserved for those species listed under the provincial *Weed Control Act Regulations* (plants) or the federal *Weed Seeds Order* (weed seeds). The term **alien invasive species** is a legislative designation for those species listed in a Schedule to the *Community Charter's Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation*.

Refer to **Section 10.1** for a complete glossary of terms.

### Integrated Invasive Plant Management

Integrated invasive plant management applies a combination of control methods, known as the 'tool kit' for invasive plant management. As such, there are many non-regulatory approaches and tools that may be implemented to assist with invasive plant management; these include the use of physical, mechanical, cultural, chemical, and biological control methods, as well as prevention. The Invasive Plant Council of BC fully supports and recommends the use of integrated management as the approach that has proven to result in the most successful invasive plant management.

The intent of the Legislative Guidebook is to educate invasive plant managers on the regulatory management options that are available to them, and to improve understanding of and compliance with the existing legislative framework; therefore, the approaches recommended and explained in the Guidebook are regulatory in nature. Voluntary compliance with existing legislation is encouraged and appreciated.

For more general information on integrated invasive plant management approaches, readers are asked to please contact their regional invasive plant committee, the BC Ministry of Agriculture and Lands, or the BC Ministry of Forests and Range, as per the contact section provided in **Section 9**.

### Currency of Information

By design, legislation, regulation, and policy are dynamic, undergoing constant revisions to maintain currency. The Council will endeavor to provide updates through a review of the Guidebook every two years.

Readers are asked to please treat the Guidebook as a starting point for legislative information. Current information and subsequent updates can be found on the Invasive Plant Council of BC's website ([www.invasiveplantcouncilbc.ca](http://www.invasiveplantcouncilbc.ca)), and the federal (<http://laws.justice.gc.ca/en/>) and provincial ([www.qp.gov.bc.ca/statreg/list\\_statreg.htm](http://www.qp.gov.bc.ca/statreg/list_statreg.htm)) government online legislative listings.

Legislative gaps or overlaps may be situation specific, and it is therefore the responsibility of the land manager or stakeholder to determine which Acts and Regulations apply in any particular circumstance, and where compliance issues may exist.

*If discrepancy occurs between legislation or regulations and this document, the legislation or regulations will apply. Any persons using this document to clarify procedures for working with invasive plants shall indemnify and save harmless the Invasive Plant Council of British Columbia, its officers, employees, agents, and members from and against all claims, losses, damages, costs, expenses (including legal fees and disbursements), liabilities, actions, and proceedings which the Invasive Plant Council of British Columbia may incur or suffer by reason of, in connection with, or arising from any willful or negligent act or omission, or other actionable wrong, on the part of a Municipality, Company, Contractor, its employees, or agents connected with the performance or breach of any regulations or legislation.*



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# 1 Invasive Plant Council of British Columbia

Invasive plants are often cited, and generally accepted, as the second largest threat to global biodiversity after habitat destruction. General impacts of invasive plants include, but are not limited to: loss of wildlife habitat; decreased water quality and fish habitat; increased wildfire hazard; reduction in crop quality and yield; increased cost of control (physical, mechanical, cultural, chemical, and biological) in croplands, pastures, public spaces, and natural areas; restoration of degraded areas following control; regulatory costs; cost of human and animal health treatment; and loss of revenue due to declining recreational values of water bodies or increased costs of maintaining quality of habitat. Despite this, the impacts invasive plants pose to our environment and economy are not understood by society or recognized by current government investment levels. The steady increase in invasive plant populations remains largely unnoticed by the general population, until it is too late to control — when remediation costs are prohibitive. Successful invasive plant management in BC will require coordinated planning among all land managers and stakeholders, including governments, as well as adequate, stable levels of investment for management.

The Invasive Plant Council of British Columbia (IPCBC) was established to provide province-wide coordination for invasive plant management. The IPCBC is a registered society with a Board of Directors and an inclusive membership. The Council supports its members — individuals, organizations, agencies, and businesses — through coordinated and cooperative efforts.

The IPCBC is guided by the *Invasive Plant Strategy for British Columbia*, a collaborative product of a diverse group of contributors, including all orders of government, land- and water-based user groups, resource-based businesses and industries, utility companies, and non-government organizations. The *Strategy* is a process-oriented document that complements and supports ongoing activities in invasive plant management in BC.

The Regulation, Compliance, and Enforcement Committee, one of five IPCBC committees, was formed in the spring of 2005 and populated with members from Council. The Committee was formed to address two of the key actions outlined in the *Invasive Plant Strategy for British Columbia*: to aim for improved compliance with existing policy and to recommend legislative and regulatory changes where compliance has been unsuccessful in the past. For more information on the work of the Regulation, Compliance, and Enforcement Committee, refer to [Appendix 1](#).

## 2 Rationale for Legislative Guidebook

In British Columbia, there are multiple levels of authority with jurisdiction over invasive plant management, including federal, provincial, local, and first nations government, as well as

*The purposes of the Invasive Plant Council of British Columbia are to educate the public and professionals about invasive plants and their risk to the world's ecosystems, conduct research relating to invasive plants and make the results of this research available, and carry out other activities that support education and research.*

private landowners. This network of jurisdiction can be very confusing to land managers, because there are often multiple agencies and governments controlling invasive plants on adjoining land parcels.

To further compound the issue of overlapping agency jurisdiction, there are numerous pieces of legislation, regulation, and policy that govern invasive plant management in BC. As a result, it is often unclear to land managers which legislation is in effect and how they are to comply with that effective legislation, especially when more than one Act or Regulation is in effect.

In October of 2005, the IPCBC undertook a survey that included all levels of Canadian government (federal, provincial, local, and first nation), industry, non-profit organizations, and the private sector. The survey was designed to determine the collective level of understanding of the current legislative framework governing invasive plant management in BC and Canada. The results of the survey identified a strong need for clarification of the existing legislative framework in order to improve voluntary compliance.

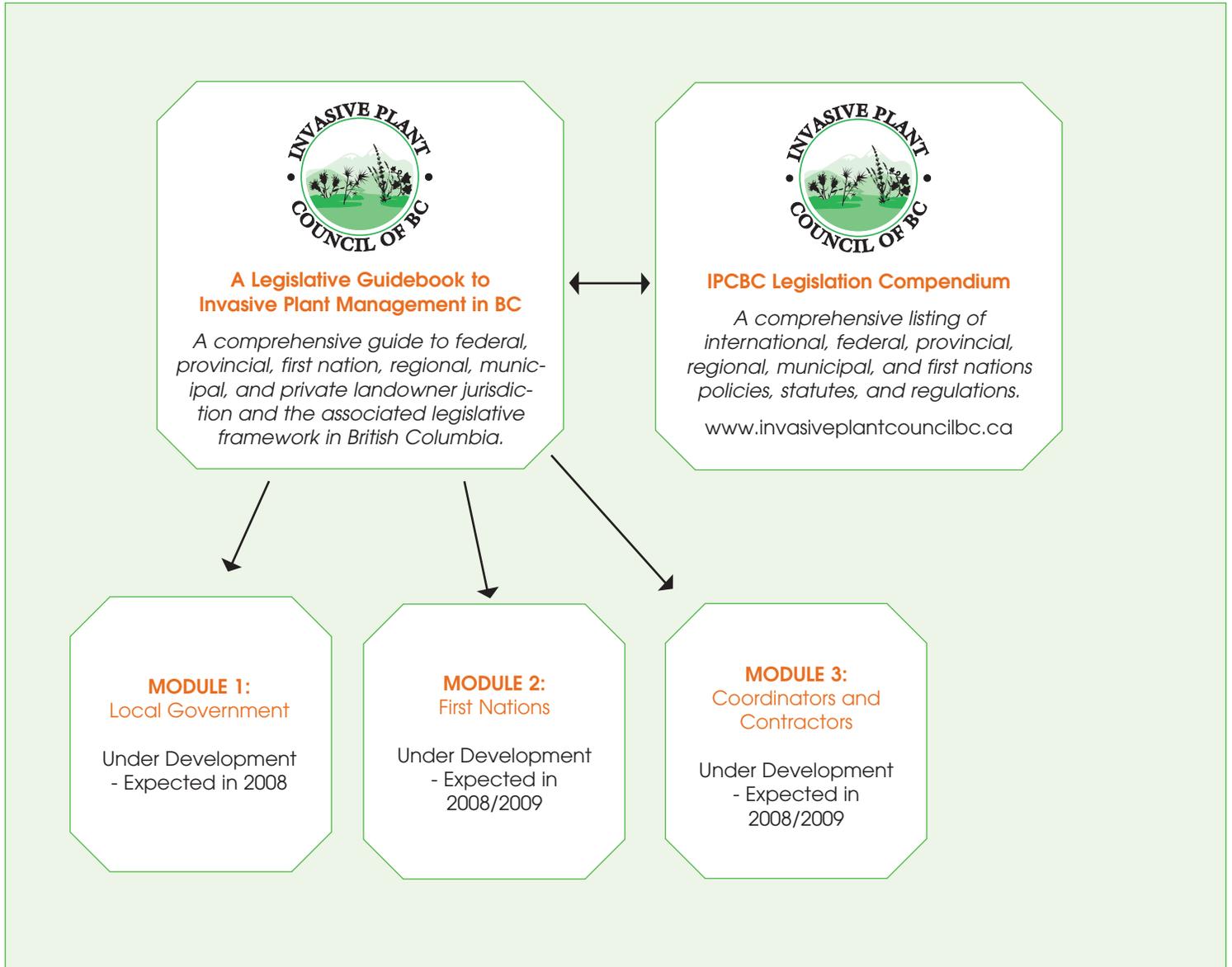
As a result of the survey, the IPCBC initiated the development of the Legislative Guidebook and associated modules, which are intended to achieve the following objectives:

- Clarify the existing legislative framework governing invasive plant management in BC;
- Illustrate the issue of land tenure and agency jurisdiction in BC;
- Provide the tools necessary to understand and voluntarily comply with the existing legislative framework, thereby improving compliance; and
- Empower land managers to undertake informed invasive plant management.

**Figure 1** provides a directory for the IPCBC Legislation Compendium, IPCBC Legislative Guidebook, and associated Guidebook Modules (to be completed in 2008/2009). Each document provides regulatory invasive plant management information. Readers are asked to please contact their regional invasive plant committee for information on non-regulatory approaches to invasive plant management.

Achievement of the above objectives will improve education of land managers and increase the coordination of invasive plant management in BC. An increase in awareness will greatly assist the early detection, management, and control of invasive plants in BC. Further, a voluntary increase in com-

pliance, created as a result of clarification of the existing legislative framework, could potentially reduce the need for enforcement activities throughout BC. Voluntary compliance is therefore strongly recommended.



**Figure 1.** Legislative Guidebook Directory.

## 3 Land Tenure and Agency Jurisdiction in BC

Land *tenure* and agency *jurisdiction* are terms that are often misunderstood by invasive plant managers, but have a large bearing on the management of invasive plants in BC. This section provides an overview of the definition and application of each term as it relates to invasive plant management in BC.

### 3.1 Jurisdiction

The *Constitution Act, 1867*, grants powers for the federal and provincial governments to legislate. This power forms the basis of legislative jurisdiction for these levels of government. Provincial Acts, and more recently court decisions, define powers for local governments to pass bylaws.

The term *jurisdiction* can be defined as “sphere of authority to rule on questions of law; authority to govern or legislate.”<sup>1</sup> For the purposes of this discussion, *jurisdiction* refers to the authoritative body administering an Act or Regulation (ex. a government agency), who then has authority to enforce that Act over the area of land to which it applies. The main *jurisdictions* represented in British Columbia are the Government of Canada, the Province of British Columbia, local governments (Regional Districts and municipalities), first nations governments, and landowners.

**Sections 4 – 8** provide a detailed explanation of each level of jurisdiction, as well as the legislation they administer. For ease of review, only legislation directly related to invasive plant management is detailed within each level of jurisdiction.

### 3.2 Land Tenure

Land *tenure* can be defined as “a right of holding or occupying land or a position for a certain amount of time.”<sup>2</sup> It is the role of the agency with *jurisdiction* to hold or assign *tenure* to the area of land under its administration, as well as to enforce applicable legislation, regulations, and policy on that area of land.

Government, industry, utility companies, non-profit organizations, and individuals, depending on the situation, can hold land *tenure*, and as such may be responsible for compliance with applicable legislation, regulations, and policy.

For a visual overview of land tenure across BC, access the Integrated Land and Resource Registry online at: <http://aardvark.gov.bc.ca/apps/ilrr/html/ILRRWelcome.html>.

## 4 Invasive Plant Legislative Framework

Invasive plant management, or weed control, is not a new issue in British Columbia. However, over the last century, a number of policies and Acts have been developed on the international, federal, and provincial scales that individually and independently attempt to deal with the issue of invasive plants in BC. The end result is a very complicated inventory of legislation, regulation, and policy that jointly governs the management of invasive plants in British Columbia. In simpler terms, there is no single piece of legislation that governs the management of invasive plants in BC; instead, there are multiple pieces of legislation and regulation that apply to certain situations, certain invasive plants or noxious weeds, certain land users, and certain land use practices.

Due to the complex nature of legislation, regulations, and policy, understanding which Act applies to whom and in which situation is a very complex initiative. Further compounding this matter is the issue of overlapping agency jurisdiction and a documented lack of clarity around how to comply with legislation and with whom to comply.

In answer to these issues, and in an attempt to clarify both the legislative framework and the overlapping jurisdiction present on the British Columbian land base, the IPCBC developed an invasive plant Legislation Compendium (See **Section 4.1**) and the Legislative Guidebook as resources for invasive plant managers in British Columbia.

This section provides a description of the IPCBC Legislation Compendium, a historical perspective on invasive plant legislation in Canada, and detailed overviews of the international policy that has guided the development of federal and provincial invasive plant legislation and regulations.

### 4.1 IPCBC Legislation Compendium

One of the first tasks undertaken by the IPCBC’s Regulation, Compliance, and Enforcement Committee was the development of an invasive plant Legislation Compendium. The intent of the Compendium is to provide a comprehensive listing of all legislation, regulations, and policy governing invasive plant management in British Columbia and Canada.

In total, the Compendium lists: 14 international agreements and policies; 25 federal Acts, Regulations, and policies; 20 provincial Acts and Regulations; 31 local government bylaws; and one first nation bylaw.<sup>3</sup>

Following the development of the Compendium, the Regulation, Compliance, and Enforcement Committee began the process of reviewing the content. The Committee is currently reviewing the effectiveness of the existing legislative framework surrounding invasive plant management in BC and Canada, and working towards improved compliance through education.

To view the IPCBC Legislation Compendium, visit [www.invasiveplantcouncilbc.ca](http://www.invasiveplantcouncilbc.ca).

<sup>1</sup> Law Dictionary Online at: [www.legal-dictionary.org](http://www.legal-dictionary.org). Accessed Sept. 12, 2007.

<sup>2</sup> Duhaime Canadian Law Dictionary Online at: [www.duhaime.org/LegalDictionary/T.aspx](http://www.duhaime.org/LegalDictionary/T.aspx). Accessed Oct. 2, 2007.

<sup>3</sup> Information may appear to be missing from the Compendium due to lack of availability at the time of development. For that reason, please view the Compendium as a baseline document to which more information can be added, and which will require periodic updating to maintain currency.

## 4.2 History of Invasive Plant Legislation in British Columbia<sup>4</sup>

The origins of Canada's provincial weed control laws date back to 1758, before confederation, when Nova Scotia enacted thistle control legislation. Lower Canada and Upper Canada also passed weed control acts in 1850 and 1865, respectively.

British Columbia, like other provinces, enacted legislation modeled on these early Acts. In fact, the first BC Act related to weed control was the *Thistle Prevention Act* of 1877 that required landowners or occupiers to destroy thistles when a notice was given to do so. Later, the *Noxious Weeds Act* (1888) prohibited the sale of seed contaminated with noxious weeds. This Act also contained provisions to prevent the movement of weed seeds via agricultural machinery.

The early weed control acts in BC targeted the control of plant species that were invasive in agricultural fields and gardens. BC's current *Weed Control Act* evolved from this early legislation reflecting political and technological changes as well as new developments in the law. Over time, the *Weed Control Act* became only one piece of a complex provincial legislative framework for invasive plants. Other provincial Acts, Regulations, and local government bylaws were put in place to address the wider impacts of invasive plants on the economy, the environment, and on human and animal health. However, the *Weed Control Act* remains focused on invasive plants that threaten agricultural production.

Recent legal research has pointed to the fragmented nature of BC's invasive plant legislation. It also makes recommendations for revising all provincial weed control acts to enable more efficient and effective invasive plant management in natural ecosystems.

The Legislative Guidebook provides an important basis for further discussion on the legal tools available in BC for combating invasive plants.

## 4.3 International Agreements

Multiple international agreements have influenced the development of federal legislation and policies. International agreements that Canada has ratified are typically followed by the enactment of federal legislation developed to administer compliance with the international agreement. Note that agreements are listed in alphabetical order.

### 4.3.1 Convention on Biological Diversity

Developed in 1992, the *Convention* is a comprehensive global agreement addressing all aspects of biological diversity: genetic resources, species, and ecosystems. Article 8-h calls for the prevention, control, and eradication of invasive species that threaten ecosystems, habitats, or species. The Global Invasive Species Programme was established in 1997 to provide support to the implementation of Article 8-h.

<sup>4</sup> Section developed with the IPCBC's appreciation by: Glennis M. Lewis. 2006. Protecting Canada's natural ecosystems from invasive alien plant species: is sub-national weed control legislation up to the task? Univ. of Ottawa: LL.M. Thesis, Faculty of Law.

Canada ratified the *Convention* in 1992 and created the *Canadian Biodiversity Strategy* in 1996 (See [Section 5.2.3](#)) as a guide to implementing the *Convention* in Canada.

### 4.3.2 Convention on International Trade in Endangered Species of Wild Fauna and Flora

The *Convention*, commonly referred to by the acronym CITES, is an international agreement between governments that aims to ensure that international trade in species of wild animals and plants does not threaten their survival.

CITES is administered in Canada by Environment Canada via the *Wild Animal and Plant Protection and Regulation of International and Inter-Provincial Trade Act* (See [Section 5.2.9](#)).

### 4.3.3 International Plant Protection Convention

The *International Plant Protection Convention* is an international treaty to secure action to prevent the spread and introduction of pests of plants and plant products, and to promote appropriate measures for their control.

The *Convention* adopts *International Standards for Phytosanitary Measures*, which provide management guidelines for issues related to the introduction and spread of plant pests, including invasive plants. *International Standards* of specific relevance include: *Principles of Plant Quarantine as Related to International Trade*; *Guidelines for Pest Risk Analysis*; *Guidelines for Pest Eradication Programs*; *Pest Risk Analysis for Quarantine Pests Including Analysis of Environmental Risks and Living Modified Organisms*; *Guidelines on Lists of Regulated Pests*; and *Guidelines for a Phytosanitary Import Regulatory Program*. For details on any of these *Standards*, refer to the *Convention's* webpage at: [www.ippc.int](http://www.ippc.int).

Canada has ratified the *Convention* and, as a signatory since 1951, is required to abide by all *International Standards*. The North American Plant Protection Organization ([www.nappo.org](http://www.nappo.org)) provides a regional presence to the *Convention*.

### 4.3.4 IUCN Guidelines for the Prevention of Biodiversity Loss by Alien Invasive Species

Developed by the World Conservation Union (IUCN), *Guidelines for the Prevention of Biodiversity Loss Caused by Alien Invasive Species* are designed to increase awareness and understanding of the impact of alien species. The *Guidelines* provide direction for the prevention of introduction, re-introduction, and control and eradication of alien invasive species.

### 4.3.5 WTO-SPS Agreement

The World Trade Organization's *Agreement on the Application of Sanitary and Phytosanitary Measures* (WTO-SPS Agreement) is a legally binding international agreement that, among other things, provides member countries with sovereign rights to protect plant health (ex. through regulating imports). In addition, the WTO-SPS Agreement specifically recognizes the *International Plant Protection Convention* as the



standard setting body responsible for establishing international standards that address plant health, and contains several key provisions in this regard, adding legal weight to the *Convention's* standards. The WTO-SPS Agreement also addresses related obligations, such as the requirement to base measures on appropriate risk assessments.

Canada is a member of the World Trade Organization and actively participates in meetings of the WTO-SPS Agreement Committee.

## 5 Federal Jurisdiction and Legal Framework

This section provides an overview of the federal agencies with jurisdiction over invasive plant management in Canada, as well as an overview of the current federal legislative framework governing invasive plant management in Canada.

### 5.1 Government of Canada Jurisdiction

The Government of Canada maintains jurisdiction over federally owned Crown land within the Province of BC. Examples include Indian reserves, national parks, post offices, airports, transportation corridors, and National Defense lands. Note that provincial legislation, unless otherwise noted below, is neither applicable nor enforceable on federally owned lands within the Province of BC.

Numerous departments of the Government of Canada have jurisdiction over federal statutes related to invasive plant management, as detailed in alphabetical order in **Sections 5.1.1 – 5.1.7** below.

#### 5.1.1 Canadian Food Inspection Agency

The Canadian Food Inspection Agency (CFIA) has been delegated authority to safeguard food, animals, and plants to enhance the health and well-being of people, the environment, and the economy.

The CFIA plays an important role in protecting Canada's plant resource base from pests and diseases. Although Environment Canada is the lead federal agency implementing *An Invasive Alien Species Strategy for Canada*, CFIA's Plant Health Program provides leadership in the implementation of the *Strategy* as it relates to invasive alien plants and plant pests.

The CFIA focuses on prevention through science-based regulation, surveillance, pest eradication, risk management, and public awareness. The CFIA's Seed Program ensures seed quality and purity and maintains the federal *Weed Seeds Order*, which designates weed species for domestic and import regulations. The CFIA's Plant Health Program works to: prevent the entry or establishment of new plant pests; limit the distribution of pests that are already present; and certify plants and plant products for pest-free domestic and international trade.

The CFIA has jurisdiction over the *Plant Protection Act* and *Regulations* and the *Seeds Act*, *Regulations* and *Weed Seeds Order*.

#### 5.1.2 Environment Canada

Environment Canada is the lead federal agency implementing *An Invasive Alien Species Strategy for Canada*, which aims to minimize the risk of invasive alien species to the environment, economy, and society.

Environment Canada has jurisdiction over the *Canadian Environmental Protection Act*, the *Species at Risk Act*, and the *Wild Animal and Plant Protection and Regulation of International and Inter-Provincial Trade Act*.

#### 5.1.3 Health Canada's Pest Management Regulatory Agency

The Pest Management Regulatory Agency is responsible for the regulation of pest control products in Canada. The Agency also develops best management policies and guidelines, promotes sustainable pest management, looks to improve the regulatory process to increase efficiency, enforces compliance with the *Pest Control Products Act*, and distributes pest management information to the general public and key stakeholders.

The Agency has jurisdiction over the *Pest Control Products Act* and *Regulations*, which regulate the products used for the control of pests, such as herbicides for controlling invasive plant species.

#### 5.1.4 Indian and Northern Affairs Canada

Indian and Northern Affairs Canada is a federal agency responsible for Indian, Inuit, and Northern Affairs. Federal legislation is in effect over these lands; conversely, provincial legislation is neither applicable nor enforceable on federal lands, even when they are within provincial boundaries. As a result, provincial invasive plant legislation, such as the *Weed Control Act*, is not applicable to Indian reserves or other federal lands. Indian and Northern Affairs Canada has jurisdiction over the *Indian Act*.

#### 5.1.5 Parks Canada

Parks Canada maintains jurisdiction over national parks in Canada, which are a countrywide system of representative natural areas of national significance. Federal law protects them for the purposes of public understanding, appreciation, and enjoyment. Provincial legislation is neither applicable nor enforceable on federal lands, even when they are within provincial boundaries.

Parks Canada has jurisdiction over the *Canada National Parks Act*, and also manages invasive plants by way of its *Guiding Principles and Operational Policies*, which state that "All practical efforts will be made to prevent the introduction of exotic plants and animals into national parks, and to eliminate or contain them where they already exist."<sup>5</sup>

<sup>5</sup> Parks Canada Guiding Principles and Operational Policies, available online at: [www.pc.gc.ca/docs/pc/poli/princip/sec2/part2a5\\_E.asp](http://www.pc.gc.ca/docs/pc/poli/princip/sec2/part2a5_E.asp). Accessed Oct. 2, 2007.

### 5.1.6 Transport Canada

Transport Canada is a federal agency that maintains jurisdiction over federal transportation corridors, such as railway, highway, and pipeline corridors. The Canadian National railway, Canadian Pacific Railway, Trans-Canada Highway, and other inter-provincial routes and inter-provincial pipelines are typically federally regulated (or owned). Federal legislation governs invasive plant management practices on these lands.

In addition, case law has determined that federally regulated companies, such as inter-provincial railways, may not be exempt from all provincial laws. This is true when provincial laws are of general application to all landowners, without distinction, and are not aimed at the management of the company as a federally regulated undertaking. An argument can therefore be made, in accordance with *Notre Dame de Bonsecours*, that legislated invasive plant species must be controlled on federally regulated railway lands, as required by provincial laws. For a detailed overview of *Notre Dame de Bonsecours*, refer to [Appendix 2](#).

Transport Canada has jurisdiction over the *Canada Transportation Act* and *Regulations*.

### 5.1.7 Other Federal Crown Land

The Government of Canada also maintains jurisdiction over post offices, airports, and National Defense lands. Federal legislation is applicable on these lands; however, provincial legislation is not applicable or enforceable on federal lands.

## 5.2 Federal Laws and Policies

Federal legislation and policy is applicable on federally owned lands within BC, or where stated by a policy or statute. This section provides an overview of nine federal Acts and policies that influence invasive plant management in BC. In all cases, federal Acts provide over-arching guidance, often general in nature, to the provinces of Canada; in some cases, similar Acts have been adapted and modified to function at the provincial level, thereby reinforcing the strength of the federal Act. Note that Acts and policies are listed in alphabetical order.

For further information on federal statutes and regulations, visit the IPCBC Legislation Compendium ([www.invasiveplantcouncilbc.ca](http://www.invasiveplantcouncilbc.ca)), or the Canadian Department of Justice (<http://laws.justice.gc.ca/>) for a complete listing.

### 5.2.1 An Invasive Alien Species Strategy for Canada

The Government of Canada and its provincial and territorial counterparts introduced *An Invasive Alien Species Strategy for Canada* in 2004, which established a framework to address the risks of invasive alien species to the environment, economy, and society. To accomplish this, the *Strategy* identifies four main goals:

- Prevent harmful intentional and unintentional introductions;
- Detect and identify new invaders in a timely manner;

- Respond rapidly to new invaders; and
- Manage established and spreading invaders through eradication, containment, and control.

While Environment Canada is the lead federal department implementing the *Strategy*, the *Strategy* is carried out in cooperation with federal, provincial, and territorial governments; non-government agencies; academic institutions; and individual Canadians.

### 5.2.2 Canada National Parks Act

Administered by Parks Canada, the *Canada National Parks Act* mandates the maintenance of ecological integrity in parks, including the composition and abundance of native plants.

Parks Canada's operational policies provide for the prevention of exotic plant and animal introductions into national parks, and elimination or containment where they already exist. National parks and historic areas across Canada have exotic (alien) species management programs, including prevention, survey, control, and restoration activities.

### 5.2.3 Canadian Biodiversity Strategy

The *Canadian Biodiversity Strategy*, a federal policy, was created in 1996 to address the *Convention on Biological Diversity* in Canada. The *Strategy* is a decision-making framework that puts the *Convention* in a national context to ensure the long-term productivity, diversity, and integrity of natural systems.

### 5.2.4 Canadian Environmental Protection Act

Administered by Environment Canada, the *Canadian Environmental Protection Act* aims to protect the environment, human life, and health from the risks associated with toxic substances. The *Act* has relevance to invasive plant management in BC in the context of chemical control.

The *New Substances Notification Regulations* were created under the *Act* to ensure that no new substances are introduced to the Canadian marketplace before an assessment of whether they are potentially toxic has been completed, and any appropriate or required control measures have been taken.

### 5.2.5 Pest Control Products Act

Administered by Health Canada's Pest Management Regulatory Agency, the *Pest Control Products Act* regulates products used for the control of pests and the organic functions of plants and animals. Noxious weeds are considered pests for the purposes of this *Act*.

The *Act* governs the manufacture, storage, distribution, sale, and use of products used in the control of pests (including invasive plants) and diseases in Canada.

### 5.2.6 Plant Protection Act and Regulations

Administered by the Canadian Food Inspection Agency, the *Plant Protection Act* and *Regulations* are designed to protect plant life and the agricultural and forestry sectors by preventing the importation, exportation, and spread of pests, and by controlling or eradicating pests in Canada. The *Act* and *Regulations* allow for the implementation of policies and operational programs designed to prevent or manage the introduction of invasive alien species that pose a threat to Canada's plant life or economic health.

In the achievement of its purpose, the *Plant Protection Act* and *Regulations* warrant, among other things, the quarantine, treatment, processing, and disposal of things that are pests, that are or could be infested, or constitute or could constitute a biological obstacle to the control of a pest. The term 'pest' includes any plant prescribed as a pest.

British Columbia also has a provincial *Plant Protection Act*, administered by the Ministry of Agriculture and Lands' Plant Health Unit.

### 5.2.7 Seeds Act and Regulations

Administered by the Canadian Food Inspection Agency, the *Seeds Act* and *Regulations* govern the testing, inspection, quality, and sale of seeds to facilitate the availability of pure, effective seed for Canadian consumers and export markets. Regulating and monitoring seed quality and the movement of weed seeds in commercial seed minimizes the introduction of harmful weeds.

The *Seeds Act* enables the *Weed Seeds Order*, which designates species as 'prohibited noxious' (none permitted in domestic or imported seed), 'primary noxious,' and 'secondary noxious.'

### 5.2.8 Species At Risk Act

Administered by Environment Canada, the *Species at Risk Act* is designed to prevent endangered or threatened wildlife from becoming extinct, and to help in the recovery of these species.

Although the *Act* does not address invasive species directly, it does call for the establishment of recovery plans, which address the control and eradication of invasive species that threaten the habitat of species at risk.

### 5.2.9 Wild Animal and Plant Protection and Regulation of International and Inter-Provincial Trade Act and Regulations

Administered by Environment Canada, the *Wild Animal and Plant Protection and Regulation of International and Inter-Provincial Trade Act* controls international trade and inter-provincial transport of wild animals and plants, their parts and products, in order to protect Canadian ecosystems from the introduction of harmful wild species, including invasive plants.

The *Act* implements Canada's obligations under the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES), and is administered in coopera-

tion with Fisheries and Oceans Canada, the Canadian Food Inspection Agency, Canada Customs and Revenue Agency, and provincial and territorial wildlife agencies.

## 6 Provincial Jurisdiction and Legal Framework

This section provides an overview of the provincial agencies with jurisdiction over invasive plant management in BC, as well as an overview of the current provincial legislative framework governing invasive plant management in British Columbia.

### 6.1 Government of British Columbia Jurisdiction

The Government of British Columbia maintains jurisdiction and authority over all provincially owned lands in BC. As such, many provincial ministries and agencies have been delegated administrative and management authority over certain areas or aspects of the land base.

The key agencies involved in invasive plant management in BC are the Ministries of Agriculture and Lands, Environment, Forests and Range, Community Services, Transportation, and Energy, Mines, and Petroleum Resources. The responsibilities of these ministries are detailed in alphabetical order in **Sections 6.1.1. – 6.1.6.**

#### 6.1.1 BC Ministry of Agriculture and Lands

The BC Ministry of Agriculture and Lands has been delegated management authority for agriculture and lands in BC; as such, multiple branches have been assigned responsibilities. The Ministry's involvement in invasive plants is primarily through the Food Safety and Quality Branch – Plant Health Unit.

The Plant Health Unit provides leadership and technical support to agri-food industries for the promotion of plant health and the production of safe, high quality products from sustainable agri-food systems. The Unit facilitates the development, implementation, and maintenance of integrated pest management strategies to mitigate the impact of plant and bee diseases, insect pests and weeds; monitors for and addresses pest outbreaks including non-native and invasive species; and promotes the safe and proper use of pesticides.

The Plant Health Unit is responsible for administering the provincial *Plant Protection Act* and *Weed Control Act*. The Ministry also has jurisdiction over the *Farm Practices Protection (Right to Farm) Act*.

#### 6.1.2 BC Ministry of Community Services

The BC Ministry of Community Services' mandate is to promote sustainable, livable communities that provide healthy and safe places for British Columbians. The Ministry does not manage any land within BC, but does provide enabling legislation for local governments to manage private lands within their boundaries.

The Ministry has jurisdiction over the *Community Charter* and *Local Government Act*, both of which describe roles for local governments in invasive plant management.

### 6.1.3 BC Ministry of Energy, Mines, and Petroleum Resources

The BC Ministry of Energy, Mines, and Petroleum Resources' Electricity Policy Branch oversees BC Hydro, BC Transmission Corporation, and Columbia Power Corporation. Crown agencies perform vegetation management, including invasive plants, on their right of ways.

The Oil and Gas Commission was created to regulate oil and gas activities and pipelines in BC. The *Pipeline Act* requires companies operating pipelines to control noxious weeds on its adjacent lands. To learn more about the Oil and Gas Commission visit [www.ogc.gov.bc.ca/](http://www.ogc.gov.bc.ca/).

The Ministry has jurisdiction over the *Pipeline Act* and the *Hydro Power and Authority Act*.

### 6.1.4 BC Ministry of the Environment

There are two divisions in the BC Ministry of Environment with administrative responsibility for the management of invasive plants: the Environmental Protection Division and the Environmental Stewardship Division. The Environmental Protection Division works to protect human and environmental health through shared environmental stewardship. The Division administers the *Integrated Pest Management Act*, which controls the sale and use of pesticides in BC. *Regulations* in the *Act* require development of Pest Management Plans (PMPs) and stipulate the restrictions that Crown agencies and others must adhere to when applying pesticides to public lands. The *Act* requires a confirmed PMP before herbicide treatments can be applied on Crown land where the total area treated exceeds 50 hectares. These plans authorize treatments over specific geographic areas and provide the holder with the mandate to control invasive plants on Crown land.

The Environmental Stewardship Division works to maintain and restore the biological diversity of ecosystems and fish and wildlife species and their habitats. The Division administers a number of statutes (*Environmental Land Use Act*, *Park Act*, *Ecological Reserve Act*) that address the protection and conservation of wildlife and habitat on approximately 14 per cent of the provincial land base in provincial parks, protected areas, ecological reserves, conservation lands, and wildlife management areas. As well, the Division administers the *Wildlife Act* and related guidelines that address wildlife and wildlife habitat protection and conservation throughout the province.

None of these statutes specifically mentions invasive plants or their management, but the statutes require the Ministry and the public to act to protect wildlife and wildlife habitat; implementation of measures to control or eradicate invasive plants are one component of an effective protection program.

### 6.1.5 BC Ministry of Forests and Range

The BC Ministry of Forests and Range is responsible for managing Crown forest and range land in British Columbia, encompassing almost 82 million hectares, or 80 per cent of the land base. The Ministry is mandated to manage, protect, and conserve the forest and range resources of the province through the *Ministry of Forests Act*; it administers the *Forest and Range Practices Act*, and issues tenures for forage under the *Range Act*. The *Forest and Range Practices Act* requires holders of a Forest Stewardship Plan, Range Stewardship Plan, Range Use Plan, or Woodlot License Plan to identify measures to prevent the introduction or spread of invasive plant species listed in the *Invasive Plants Regulation*. The *Act* does not address existing invasive plant populations, or those new sites that are not attributed to forest and range practices, such as seed spread by wildlife or recreation.

The Ministry delivers on-the-ground invasive plant management, often in concert with other stakeholders, and has identified specific invasive plant management performance measure targets in the Ministry Service Plan. There are two Divisions and Branches responsible for invasive plant management within the Ministry. Range Branch, within Operations Division, plans, implements, and manages the operational invasive plant management program, with some support provided by forest district staff. Forest Practices Branch, within the Forest Stewardship Division, is responsible for the development of new biological control agents. The Ministry's Invasive plant management program, including the Invasive Alien Plant Program (IAPP) application ([www.for.gov.bc.ca/hra/Plants/application.htm](http://www.for.gov.bc.ca/hra/Plants/application.htm)), helps fulfill the Ministry's obligations under the *Weed Control Act* and *Forest and Range Practices Act*.

### 6.1.6 BC Ministry of Transportation

The BC Ministry of Transportation has been delegated management authority for transportation corridors in BC. The Ministry plans transportation networks, provides transportation services, develops and implements transportation policies, and administers many transportation-related Acts and Regulations. The Ministry maintains existing highways to a high standard through contracts with private sector road maintenance providers. In carrying out its mandate, the Ministry is committed to sustainable environmental management in its operations.

Under the powers of the *Transportation Act*, and in accordance with the provisions of the *Weed Control Act*, the Ministry is responsible for controlling designated noxious weeds on its right of ways.

## 6.2 Provincial Laws and Strategies

Provincial legislation is intended to be complementary to both international and federal legislation and policy, and often enables the development of local government bylaws. However, provincial legislation is more specific in nature and, as such, attempts to regulate specific uses of the provincial land base, or user groups.

This section provides an overview of nine provincial Acts, Regulations, and Strategies that influence invasive plant management in BC. Each Act or Strategy has relevance to a specific portion of the land base (indicated as **Crown** or **Private land** below) and a specific user group based on its purpose, which is detailed in the sections to follow. Note that Acts, Regulations, and Strategies are listed in alphabetical order.

For further information on provincial statutes and regulations, view the IPCBC Legislation Compendium ([www.invasiveplantcouncilbc.ca](http://www.invasiveplantcouncilbc.ca)), or the Ministry of Labour and Citizen's Services - Queen's Printer ([www.qp.gov.bc.ca/statreg/](http://www.qp.gov.bc.ca/statreg/)) for a complete listing.

### 6.2.1 Community Charter Private Land

Administered by the Ministry of Community Services, the *Community Charter* is enabling legislation that provides powers that municipalities may use for, among other things, invasive plant control. Authority for invasive plant control is available under either *weed control powers* or *broad powers* for the protection of the natural environment.

In general, if local governments have multiple enabling provisions that could be used for any particular initiative, they may use whichever enabling provision they want unless there is specific language to limit their options. The format for the *Charter* draught is the creation of broad powers, which the courts are instructed to not read narrowly. This gives municipalities great flexibility in the kind of regulations they might want to establish for invasive plant management. Similarly, municipalities have flexibility under the *Charter* regarding the kind of non-regulatory programs they can establish.

The *Community Charter's Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation* provides a list of invasive plant and animal species, defined by the *Regulation* as alien invasive species. The blanket permission for management applies only to the species listed in this *Regulation*. Refer to **Appendix 3** for a complete list of plant species listed under the *Community Charter*.

Municipalities operating under the *weed control powers* may add new species to their bylaw at their discretion, whereas municipalities operating under *broad powers* must get approval from the Ministry of Environment to add species to their bylaw.

### 6.2.2 Farm Practices Protection (Right to Farm) Act Farmland

Administered by the Ministry of Agriculture and Lands, the *Farm Practices Protection (Right to Farm) Act* protects activities classified as normal farm practices. Normal practices under the definition of farm operation include applying pesticides. This and other classified activities are allowed on defined areas of the land base as defined in *Part 2 – Right to Farm*.

### 6.2.3 Forest and Range Practices Act Crown Land

Administered by the Ministry of Forests and Range, the *Forest and Range Practices Act* requires all persons carrying out a

forest or range practice to follow approved measures to prevent the introduction or spread of prescribed invasive plant species.

The *Act* includes the *Invasive Plants Regulation* that provides a list of 42 species, defined as invasive plants, applicable to forest stewardship plans, woodlot license plans, range use plans, and range stewardship plans. Refer to **Appendix 3** for a complete list of invasive plant species listed under the *Act's Invasive Plants Regulation*.

### 6.2.4 Hydro and Power Authority Act Crown Land

Administered by the Ministry of Energy, Mines, and Petroleum Resources, the *Hydro and Power Authority Act* establishes the British Columbia Hydro and Power Authority. Under the *Act*, BC Hydro and, by extension, BC Transmission Corporation, are exempt from certain provincial legislation: the *Forest and Range Practices Act*, *Community Charter*, and the *Weed Control Act*. Note that there is no exemption granted from the *Integrated Pest Management Act*.

BC Transmission Corporation acts to control invasive plants and, as such, they attempt to meet public expectation while not legally bound by these *Acts*. The exemptions allow these Crown agencies to carry out their duties without the hindrance of complying with provisions in the *Acts* that may have contradictory intent.

### 6.2.5 Integrated Pest Management Act Crown, Local & Private Land

Administered by the Ministry of Environment, the *Integrated Pest Management Act* governs the use of pesticides and outlines general criteria for integrated pest management programs in BC. The *Act* regulates the sale, containment, transportation, storage, preparation, mixing, application, and disposal of pesticides. The *Act* regulates activity related to pesticide use; it does not regulate the land base. As such, the *Act* is applicable to pesticide uses on provincial, regional, municipal, and some private lands within BC, with the exception of agriculture. It does not apply to federal lands, most notably Indian reserves and national parks. For further information, consult the website listed below.

The *Integrated Pest Management Act*:

- Requires that all reasonable non-pesticide treatments must be evaluated and the use of pesticides justified prior to application;
- Requires that certain applicators be certified; and
- Regulates the application of pesticides for commercial and industrial use on all public land and on private land used for forestry, utilities, transportation, and pipelines.

To obtain copies of the *Act*, *Regulations*, or information on the most recent amendments, please visit [www.env.gov.bc.ca/epd/epdpa/ipmp/index.html](http://www.env.gov.bc.ca/epd/epdpa/ipmp/index.html).

### 6.2.6 Invasive Plant Strategy for British Columbia

Provincial

The *Strategy* is the product of a diverse group of contributors from: all orders of Canadian government (federal, provincial, local, and first nations); land and water-based user groups; resource based businesses and industries; utility companies; and non-government organizations. It is presented as a process-oriented document intended to complement and support ongoing invasive plant management activities in BC.

The *Strategy's* goal is to build cooperation and coordination in invasive plant management through the establishment of the Invasive Plant Council of BC.

### 6.2.7 Local Government Act

Private Land

Administered by the Ministry of Community Services, the *Local Government Act* is enabling legislation that provides authority to regional districts to establish a weed control function.

The *Local Government Act* is older than the *Community Charter*, and is the product of a different draughting style. Regional Districts do not automatically have the authority to control invasive plants. In order to exercise their *nuisance control powers* they must establish a service having weed management as one of its purposes. Once the service is established, the enabling provision for weed control is different than that of the *Community Charter*. The Regional District board may "require the owners or occupiers of real property, or their agents, to clear the property of brush, trees, noxious weeds, or other growths."

The *Act* enables Regional Districts to manage provincial and regional noxious weeds, which are those invasive plants listed under the *Weed Control Act Regulations* (See [Appendix 3](#)).

### 6.2.8 Pipeline Act

Pipeline Rights of Way

Administered by the Ministry of Energy, Mines, and Petroleum Resources, the *Pipeline Act* requires that every company constructing or operating pipelines to transport oil, gas, or solids must "...root out and destroy, each year, before they have matured to seed, thistles and noxious weeds growing on its land adjacent to its pipelines."

The *Act* is only applicable to pipelines and associated structures that come under provincial jurisdiction; therefore, any pipeline or associated structure that is federal in scope is outside of provincial jurisdiction and exempt from this *Act*. However, general laws, such as the *Weed Control Act*, are applicable on federally operated pipelines as per recent case law (See [Appendix 2](#)).

### 6.2.9 Weed Control Act

Crown & Private Land

Administered by the Ministry of Agriculture and Lands, the *Weed Control Act* places duty on all land occupiers to control 21 provincial and 27 regional noxious weed species listed in the accompanying *Regulations*. Refer to [Appendix 3](#) for a list of species designated as noxious weeds under the *Regulations*.

The *Weed Control Act* is enabling legislation that provides a mechanism for the province or local governments to plan, implement, and enforce the type of weed control program desired within the boundaries of their community. The *Act* provides for the appointment of inspectors to ensure compliance and, failing that, for a method by which they can control weeds with costs recovered from the occupier. Municipal (defined to include both regional districts and municipalities) councils may establish Weed Control Committees, by bylaw, to administer the *Act* within a municipality or regional district. Committees then report to the municipal council and to the Ministry of Agriculture and Lands.

Non-government invasive plant committees also contribute to weed management activities and refer to the *Weed Control Act Regulation's* list of provincially and regionally significant noxious weeds, but are not empowered to enforce the *Act*.

## 7 Local Government Jurisdiction and Legal Framework

This section provides an overview of the local government agencies that are enabled jurisdiction over invasive plant management in BC, as well as an overview of the legislative framework governing invasive plant management at the local level.

### 7.1 Local Government Jurisdiction

Regional Districts and municipalities have jurisdiction over private land in BC. As such, they employ a number of regulatory tools to conduct their daily business. Regional Districts and municipalities that choose to take on an invasive plant (weed) management function do so through enabling provincial legislation, namely the *Weed Control Act*, *Local Government Act*, or *Community Charter*.

To enable an invasive plant management function, local governments typically develop and implement bylaws. Bylaws are often variable between and among local governments, and as such there is no set template for an effective invasive plant bylaw.

#### 7.1.1 Regional Districts

Regional Districts have jurisdiction over private land within their regional boundaries, with the exception of the municipalities housed within.

Regional Districts are enabled authority for weed control through either the *Weed Control Act* ([Section 6.2.9](#)) or the *Local Government Act* ([Section 6.2.7](#)).

#### 7.1.2 Municipalities

Municipalities have jurisdiction over private land within their municipal boundaries.

Municipalities are enabled authority for invasive plant control through either the *Weed Control Act* (defined as noxious



weeds) or the *Community Charter* (defined as alien invasive plants) (**Section 6.2.1**). Municipalities can choose to develop their own programs, or join an existing program with their affiliated Regional District.

### 7.1.3 Private Landowners

Private landowners are responsible for complying with local government bylaws, regional district and municipal, on their privately owned land, as well as provincial legislation and regulations where applicable.

## 7.2 Local Government Legislation and Bylaws

In general, local governments can choose to adopt an invasive plant control function through the *Weed Control Act*, *Local Government Act*, or *Community Charter*. This process requires a bylaw to formally adopt the function. The bylaw will define the scope of the program, how it will be enforced, and what the implications are for non-compliance.

For more information on this topic, please refer to the Local Government Module, which is currently under development and expected to be available in Fall 2008 on the IPCBC's website ([www.invasiveplantcouncilbc.ca](http://www.invasiveplantcouncilbc.ca)).

## 8 First Nations Jurisdiction and Legal Framework

This section provides an overview of first nations jurisdiction over invasive plant management in BC, as well as an overview of the *Indian Act*, which enables invasive plant management on Indian reserves within Canada.

### 8.1 First Nations Jurisdiction

First nations are responsible for invasive plant management on federal Indian reserves, and have jurisdiction over their privately owned lands. Separate from legal requirements, first nations have a considerable interest in protecting traditional areas and other lands that are not under their jurisdiction.

First nations are enabled to manage invasive plants on Indian reserves via the *Indian Act*; however, there is no additional funding available and no requirement for control. As previously mentioned, provincial legislation, including the provincial *Weed Control Act*, does not apply to federal lands.

### 8.2 First Nations Legal Framework

The *Indian Act* grants authority to Bands to administer weed control programs on reserves; conversely, privately held lands fall under the jurisdiction of local government bylaws and relevant provincial legislation.

## 9 Contact Information

The following contact information can be used to obtain additional information on the management of invasive plants in BC.

### 9.1 Federal Government

For detailed contact information, including telephone and email, readers are asked to refer to the federal government's online directory at: <http://direct.srv.gc.ca/cgi-bin/direct500/BE>.

Canadian Food Inspection Agency  
Plant Health Program Network  
Invasive Alien Species Unit  
Main Office: 604-666-6513

Environment Canada  
Conservation Partnerships and Programs  
Invasive Alien Species Program  
General Enquiries: 1-800-668-6767

### 9.2 Provincial Government

For detailed contact information, including telephone and email, readers are asked to refer to the provincial government's online directory at: [www.dir.gov.bc.ca/](http://www.dir.gov.bc.ca/).

BC Ministry of Agriculture and Lands  
Plant Health Unit  
Weed Control Specialist  
Enquiry BC: 1-800-663-7867

BC Ministry of Forests and Range  
Range Branch  
Invasive Plant Officer  
Enquiry BC: 1-800-663-7867

### 9.3 Local Government

Many local governments, including Regional Districts and municipalities, currently have functional invasive plant management or weed control programs. A description of these programs, and the bylaws that enable them, can be found in the IPCBC Legislation Compendium ([www.invasiveplantcouncilbc.ca](http://www.invasiveplantcouncilbc.ca)). Other local governments throughout BC are in the process of developing programs for their areas, and as such local invasive plant management in BC is not static.

Please refer to the IPCBC Legislation Compendium for information on the local government in question, and access Civic Info for specific contact information for that local government, available at: [www.civicinfo.bc.ca/11.asp](http://www.civicinfo.bc.ca/11.asp).

### 9.4 Regional Weed Committees and Invasive Plant Councils

Regional weed committees or invasive plant councils cover nearly the entire province of BC. Readers are encouraged to visit the IPCBC's website ([www.invasiveplantcouncilbc.ca](http://www.invasiveplantcouncilbc.ca)) for details on how to contact the regional committee coordinator in their area.

## 10 Glossary of Terms and Acronyms

### 10.1 Glossary of Terms <sup>6</sup>

**Alien** - Any plant species that is not native to British Columbia, or a region within the province. Also referred to as 'exotic' or 'introduced.'

**Alien Invasive Species** - Legislative term that refers to species listed in section 1 and 2 of the Schedule to the *Community Charter's Spheres of Concurrent Jurisdiction – Environmental and Wildlife Regulation*. The Schedule lists both invasive plant and invasive animal species.

**Bylaw** - A secondary law.

**Guideline** - An official recommendation indicating how something should be done or what sort of action should be taken in a particular circumstance.

**Invasive (Alien) Plant** - (i) As defined in the *Invasive Plant Strategy for BC*: "any invasive alien plant species that has the potential to pose undesirable or detrimental impacts on humans, animals, or ecosystems. Many invasive plants in BC are 'alien' to North America, and may also be referred to as 'non-native,' 'exotic,' or 'introduced' plant species." (ii) Legislative term that refers to species listed under the *Forest and Range Practices Act's Invasive Plants Regulation*.

**Jurisdiction** - Sphere of authority to rule on questions of law; authority to govern or legislate.

**Law** - (i) An act passed by a legislature; or (ii) The body or system of rules that are enforceable by established process. Law is made by the courts.

**Legislation** - A law or laws passed by an official body, especially a governmental assembly.

**Noxious Weed** - Legislative term for: (i) A weed designated by *Regulation* under the *Weed Control Act* to be a noxious weed, and includes the seeds of the noxious weed; or (ii) A species designated by the *Weed Seeds Order* to be a noxious weed.

**Policy** - A program of actions adopted by a government, or the set of principles on which they are based.

**Regulation** - (i) An official rule, law, or order stating what may or may not be done or how something must be done, or (ii) An order issued by a government department or agency that has the force of law.

**Statute** - (i) A law established by a legislative body, or (ii) A permanent established rule or law.

**Tenure** - A right of holding or occupying land or a position for a certain amount of time.

### 10.2 Glossary of Acronyms

BC	Province of British Columbia, Canada
CFIA	Canadian Food Inspection Agency
CITES	<i>Convention on International Trade in Endangered Species of Wild Fauna and Flora</i>
IAPP	Invasive Alien Plant Program application
IPCBC	Invasive Plant Council of British Columbia
IUCN	World Conservation Union
PMP	Pest Management Plan
WTO-SPS	<i>World Trade Organization's Agreement on the Application of Sanitary and Phytosanitary Measures</i> (WTO-SPS Agreement)

## 11 APPENDIX 1: Regulation, Compliance, and Enforcement Committee

The Regulation, Compliance, and Enforcement Committee was initiated in the spring of 2005 and populated with members from Council. The Committee was formed to address two of the key actions outlined in the *Invasive Plant Strategy for British Columbia*: to aim for improved compliance with existing policy and to recommend legislative and regulatory changes where compliance has been unsuccessful.

The efforts of the Committee are generally divided into three broad components or categories as follows:

1. Review and evaluate the effectiveness of invasive plant legislation, regulation, and policy and recommend improvements as required;
2. Investigate the causes of non-compliance with current invasive plant legislation, regulation, and policy, and identify ways to improve and encourage compliance; and
3. Investigate the effectiveness of current regulations and enforcement measures where applicable.

Actions completed by the Committee to date, 2005 – 2007, include the following:

- Developed IPCBC Legislation Compendium;
- Reviewed existing bylaws in place within Regional Districts and municipalities in BC, and drafted bylaw tips for a community interested in pursuing this regulatory option;
- Developed a questionnaire designed to determine existing knowledge of invasive plant legislation, regulations, and policy, as well as its effectiveness;
- Undertook a legislative review process that encompassed many of the prevalent regulations regarding invasive plant management in BC; and
- Developed the Legislative Guidebook and initiated specified Modules to educate invasive plant managers and ultimately improve compliance within the existing legislative framework.

The Committee will continue to take direction from the broad Council membership, and in this capacity will endeavor to clarify the existing legislative framework governing invasive plant management in BC.

<sup>6</sup> Definitions are adopted from (i) Encarta® World English Dictionary © 1999 Microsoft Corporation; (ii) Law Dictionary Online at: [www.legal-dictionary.org](http://www.legal-dictionary.org). Accessed Sept. 12, 2007; or (iii) Duhaime Canadian Law Dictionary Online at: [www.duhaime.org/LegalDictionary/T.aspx](http://www.duhaime.org/LegalDictionary/T.aspx). Accessed Oct. 2, 2007.



## 12 APPENDIX 2: Notre Dame De Bonsecours Case Law

The following description of the application of Notre Dame de Bonsecours to provincial weed control acts is an excerpt from *Protecting Canada's Natural Ecosystems From Invasive Alien Plant Species: Is Sub-National Weed Control Legislation Up to the Task?* (Lewis 2006).<sup>7</sup>

The definitive case addressing the application of provincial laws to federally regulated companies dates back to 1899. In *Canadian Pacific v. Notre Dame de Bonsecours (Parish)*<sup>8</sup> (hereinafter Notre Dame de Bonsecours), the Quebec Privy Council upheld a notice issued to Canadian Pacific under the *Quebec Municipal Code* to remove the obstruction from a ditch on its land which had caused flooding on neighboring lands. The Company argued that it need not comply with the *Code* as it was subject exclusively to federal jurisdiction. However, the Privy Council held that the *British North America Act*<sup>9</sup> gave legislative control of railways to the Parliament of Canada, including powers to construct, repair, alter, and manage such a work. The *Act* did not declare that the railway ceased to be part of the province in which it is located. If the *Code* had directed that the Company alter the construction of the ditch, it would be *ultra vires* but the Company was not exempt from a provincial law of general application to all

landowners, without distinction. Notre Dame de Bonsecours remains good law, having more recently been applied by the Supreme Court in *Ontario v. Canadian Pacific*.<sup>10</sup>

The application of provincial weed control acts to each kind of federally regulated work and undertaking would merit consideration in its own right. However, inter-provincial railways regulated under the *Canada Transportation Act*<sup>11</sup> may be a significant source of invasive alien plants spreading throughout a province and thus provide a case study on this issue. Such railways control weeds on rights of way to provide clear sightlines and a stable sub-structure for the track, which are important components of railway management and safety.<sup>12</sup> Provincial weed control acts and plant health protection acts, on the other hand, serve a very different purpose in preventing the spread of invasive alien plant species to neighboring lands where they might damage natural ecosystems, as well as threaten human health and the economy. They are provincial laws of general application to all landowners, without distinction, and they are not aimed at the management of the railway as a federally regulated undertaking. Therefore, an argument can be made, in accordance with Notre Dame de Bonsecours, that designated invasive alien plant species or weeds must be controlled on federally regulated railway lands as required by the provincial acts.

<sup>7</sup> Glennis M. Lewis. 2006. Protecting Canada's natural ecosystems from invasive alien plant species: is sub-national legislation up to the task? University of Ottawa: LL.M. Thesis, Faculty of Law.

<sup>8</sup> (1899) A.C. 367.

<sup>9</sup> 1867 (U.K.), 30&31 Vict.,c.3.

<sup>10</sup> *Ontario v. Canadian Pacific Ltd.* (1995) 2 S.C.R. 1028. Canadian Pacific was charged under Ontario's *Environmental Protection Act* for discharging a contaminant into the environment when it burned weeds and brush on its right of way. Even though Canadian Pacific was a federally regulated undertaking pursuant to the *Railway Act*, it had no inter-jurisdictional immunity from prosecution under the province's environmental laws.

<sup>11</sup> S.C. 1996, c.10.

<sup>12</sup> The Railway Association of Canada, Meet Your Neighbor on line at: [www.proximityissues.ca/english/MaterialsContent/en\\_community\\_brochure.pdf](http://www.proximityissues.ca/english/MaterialsContent/en_community_brochure.pdf).

## 13 APPENDIX 3: Legislated Invasive Plants in BC

### 13.1 Level of Invasiveness

In addition to a plant's biological characteristics, the level of invasiveness of a given plant will also vary considerably with environmental and management factors or influences. For example, invasive plants growing in controlled environments, such as landscaped areas, or environments they are poorly adapted to, are less likely to spread because they are either maintained within the landscaped area or need to work hard just to survive. Conversely, invasive plants growing in natural environments where they are well adapted are often able to out-compete native vegetation and flourish on the site in the absence of management efforts.

The level of invasiveness for any given plant will also vary considerably by region and sub-region of the province due to variability in biogeoclimatic factors, such as soil type, depth to water table, existing plant community, annual rainfall, aspect, and temperature. This regional variability is what makes the province of BC unique; however, it also creates an inability to generalize a list of invasive plants that would be applicable across BC. For instance, some invasive plants are only adapted to a specific habitat type (ex. riparian) or a specific sub-region of the province (ex. Puncturevine), while others are able to flourish on a wide variety of habitat types across BC (ex. Spotted Knapweed). A plant such as English ivy, for example, is considered highly invasive in the Lower Mainland, but is not considered to be an issue in the Central Interior due to regional climatic and geographic differences. Invasive plants are particularly adept at invading sites where the native plant community has been disturbed or degraded.

This regional variation in invasiveness gives rise to the common phrase, '**Right Plant, Right Place.**' Invasive plant managers are

advised to be cognizant of the fact that each geographic region in BC will have a different group of plants that are invasive depending on species biology, environmental factors, and human-influenced factors.

The legislated lists provided in **Section 13.2** are broad-based and were developed to represent all regions of the province. Readers will note that while certain species are classified as provincially invasive or noxious, others are classified as regionally invasive or noxious (only a problem in certain regions).

While the lists are intended for broad legislative use, it is recommended that any community wishing to develop a bylaw under the *Community Charter* first determine the appropriate species for their region or area.

### 13.2 Table of Legislated Invasive Plants in BC

**Table 1** lists species that are listed under one or more provincial Regulation(s) as noxious weeds, alien invasive species, or invasive plants (see below). Please note the following:

1. Rows shaded in orange contain a species that is common to all three legislated lists.
2. Due to the nature of regulations and the necessity for continual revisions, please consult the websites provided for the most accurate record of the species contained on each list. The lists are accurate to December 9th, 2005, as per the last online revisions.
3. Multiple sections of the *Community Charter's* list provide only common names for listed species. For clarification and ease of review, full scientific names have been provided for these species in **Table 1**, and are indicated by parentheses. Please note that there are often changes to the scientific (Latin) names of plants as identification methods become more sophisticated; as a result, legislated plant lists do not necessarily reflect the most current or accepted scientific name for each listed species.

**Table 1.** Legislated Invasive Plants in BC.

Provincial Act		Weed Control Act	Forest and Range Practices Act	Community Charter
Associated Regulation		Weed Control Regulation	Invasive Plants Regulation	Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation
Number of Species Listed		48	42	78
Website for Current Information		www.qp.gov.bc.ca/statreg/reg/W/66_85.htm#schedules	www.qp.gov.bc.ca/statreg/reg/F/ForRangPrac/18_2004.htm	www.qp.gov.bc.ca/statreg/reg/C/CommuCharter/144_2004.htm
Common Name	Scientific Name	NOXIOUS WEED	INVASIVE PLANT	ALIEN INVASIVE SPECIES
Annual sow thistle	<i>Sonchus oleraceus</i>	✓ (PW <sup>13</sup> )		✓ (P <sup>14</sup> )
Baby's breath	<i>Gypsophila paniculata</i>		✓	✓ (TVP <sup>15</sup> )
Black knapweed	<i>Centaurea nigra</i>		✓	
Blueweed	<i>Echium vulgare</i>	✓ (RW <sup>16</sup> )	✓	✓ (RD <sup>17</sup> )
Brown knapweed	<i>Centurea jacea</i>		✓	
Bull thistle	<i>Cirsium vulgare</i>		✓	✓ (TVP)
Canada Thistle	<i>Cirsium arvense</i>	✓ (PW)	✓	✓ (P)
Carpet burweed	<i>(Soliva sessilis)</i>			✓ (TVP)
Cleavers	<i>Galium aparine</i>	✓ (RW)		✓ (RD)
Common barnyard grass	<i>(Echinochloa crusalii)</i>			✓ (TVP)
Common bugloss (Anchusa)	<i>Anchusa officinalis</i>	✓ (RW)	✓	✓ (RD)
(Common) burdock	<i>Arctium minus, Arctium spp.</i>	✓ (RW)	✓	✓ (RD)
Common crupina	<i>Crupina vulgaris</i>	✓ (PW)		✓ (P), ✓ (TVP)
Common reed	<i>(Phragmites australis)</i>			✓ (FW/RVP)
Common tansy	<i>Tanacetum vulgare</i>	✓ (RW)	✓	✓ (RD)
Curly pondweed	<i>(Potamogeton crispus)</i>			✓ (FW/RVP)
Dalmatian toadflax	<i>Linaria dalmatica</i>	✓ (PW)	✓	✓ (P)
Diffuse knapweed	<i>Centaurea diffusa</i>	✓ (PW)	✓	✓ (P)
(Parasitic) Dodder	<i>Cuscuta spp.</i>	✓ (PW)		✓ (P), ✓ (TVP)
Downy brome grass	<i>(Bromus tectorum)</i>			✓ (TVP)
English ivy	<i>(Hedera helix)</i>			✓ (TVP)
Eurasian watermilfoil	<i>(Myriophyllum spicatum)</i>			✓ (FW/RVP)
Field scabious	<i>Knautia arvensis</i>	✓ (RW)	✓	✓ (RD)
Flowering rush	<i>(Butomus umbrellatus)</i>			✓ (FW/RVP <sup>18</sup> )
Garlic mustard	<i>(Alliaria petiolata)</i>			✓ (TVP)
Giant knotweed	<i>(Fallopia sachalenensis)</i>		✓	✓ (TVP)
Green foxtail	<i>Setaria viridis</i>	✓ (RW)		✓ (RD)

<sup>13</sup>PW = Provincial Weed, weed classified as noxious in all regions of the province. Listed with common and scientific names.

<sup>14</sup>P = Provincial, alien invasive species. Listed with common and scientific names.

<sup>15</sup>TVP = Terrestrial Vascular Plant, alien invasive species. Listed by common name only with scientific name provided in parentheses for reference.

<sup>16</sup>RW = Regional Weed, weed classified as noxious within the boundaries of one or more regional districts. Refer to *Regulation* for Regional Districts' applicability. Listed with common and scientific names.

<sup>17</sup>RD = Alien invasive species in a Regional District. Refer to *Regulation* for regional districts' applicability. Listed with common and scientific names.

<sup>18</sup>FW/RVP = Fresh Water / Riparian Vascular Plant, alien invasive species. Listed by common name only with scientific name provided in parentheses for reference.

Table 1. Legislated Invasive Plants in BC (continued).

Provincial Act		Weed Control Act	Forest and Range Practices Act	Community Charter
Associated Regulation		Weed Control Regulation	Invasive Plants Regulation	Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation
Number of Species Listed		48	42	78
Website for Current Information		www.qp.gov.bc.ca/statreg/reg/W/66_85.htm#schedules	www.qp.gov.bc.ca/statreg/reg/F/ForRangPrac/18_2004.htm	www.qp.gov.bc.ca/statreg/reg/C/CommCharter/144_2004.htm
Common Name	Scientific Name	NOXIOUS WEED	INVASIVE PLANT	ALIEN INVASIVE SPECIES
Giant hogweed	<i>Heracleum mategazzianum</i>			✓ (TVP)
Gorse	<i>Ulex europaeus</i>	✓ (PW)	✓	✓ (P)
Himalayan balsam (Policeman's helmet)	<i>(Impatiens glandulifera)</i>			✓ (TVP)
Himalayan blackberry	<i>(Rubus discolor)</i>			✓ (TVP)
Hoary alyssum	<i>Berteroa incana</i>	✓ (RW)	✓	✓ (RD)
Hoary cress	<i>Cardaria draba</i>	✓ (RW)	✓	✓ (RD)
Hound's-tongue	<i>Cynoglossum officinale</i>	✓ (PW)	✓	✓ (P)
Hydrilla	<i>(Hydrilla verticillata)</i>			✓ (FW/RVP)
Japanese knotweed	<i>Fallopia japonica</i>		✓	✓ (TVP)
Jointed goatgrass	<i>Aegilops cylindrica</i>	✓ (PW)		✓ (P)
Kochia	<i>Kochia scoparia</i>	✓ (RW)		✓ (RD)
Kudzu	<i>(Pueraria lobata)</i>			✓ (TVP)
Leafy spurge	<i>Euphorbia esula</i>	✓ (PW)	✓	✓ (P)
Marsh (plume) thistle	<i>Cirsium palustre</i>	✓ (RW)	✓	✓ (RD)
Meadow hawkweed	<i>Hieracium caespitosum</i>		✓	
Meadow knapweed	<i>Centaurea pratensis</i>	✓ (RW)	✓	✓ (RD)
Night-flowering catchfly	<i>Silene noctiflora</i>	✓ (RW)		✓ (RD)
Nodding thistle	<i>Carduus nutans</i>		✓	✓ (TVP)
Orange hawkweed	<i>Hieracium aurantiacum</i>	✓ (RW)	✓	✓ (RD)
Orchard grass	<i>(Dactylis glomerata)</i>			✓ (TVP)
Oxeye daisy	<i>Chrysanthemum leucanthemem</i>	✓ (RW)	✓	✓ (RD)
Perennial pepperweed	<i>Lepidium latifolium</i>	✓ (RW)	✓	✓ (RD)
Perennial sowthistle	<i>Sonchus arvensis</i>	✓ (PW)		✓ (P)
Plumeless thistle	<i>Carduus acanthoides</i>	✓ (RW)	✓	✓ (RD)
Poison hemlock	<i>(Conium maculatum)</i>			✓ (TVP)
Puncture vine	<i>Tribulus terrestris</i>	✓ (RW)	✓	✓ (RD)
Purple loosestrife	<i>Lythrum salicaria</i>		✓	✓ (FW/RVP)
Purple nutsedge	<i>Cyperus rotundus</i>	✓ (PW)		✓ (P)
Quackgrass	<i>Agropyron repens</i>	✓ (RW)		✓ (RD)
Reed canarygrass	<i>(Phalaris arundinacea)</i>			✓ (FW/RVP)
Rush skeletonweed	<i>Chondrilla juncea</i>	✓ (PW)	✓	✓ (P)

**Table 1.** Legislated Invasive Plants in BC (*continued*).

Provincial Act		Weed Control Act	Forest and Range Practices Act	Community Charter
Associated Regulation		Weed Control Regulation	Invasive Plants Regulation	Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation
Number of Species Listed		48	42	78
Website for Current Information		<a href="http://www.qp.gov.bc.ca/statreg/reg/W/66_85.htm#schedules">www.qp.gov.bc.ca/statreg/reg/W/66_85.htm#schedules</a>	<a href="http://www.qp.gov.bc.ca/statreg/reg/F/ForRangPrac/18_2004.htm">www.qp.gov.bc.ca/statreg/reg/F/ForRangPrac/18_2004.htm</a>	<a href="http://www.qp.gov.bc.ca/statreg/reg/C/CommCharter/144_2004.htm">www.qp.gov.bc.ca/statreg/reg/C/CommCharter/144_2004.htm</a>
Common Name	Scientific Name	NOXIOUS WEED	INVASIVE PLANT	ALIEN INVASIVE SPECIES
Russian knapweed	<i>Acroptilon repens</i>	✓ (RW)	✓	✓ (RD)
Russian thistle	<i>Salsola kali</i>	✓ (RW)		✓ (RD)
Saltcedar	<i>(Tamarix ramosissima)</i>			✓ (TVP)
Scentless chamomile	<i>Matricaria maritima</i>	✓ (PW)	✓	✓ (P)
Scotch broom	<i>Cytisus scoparius</i>		✓	✓ (TVP)
Scotch thistle	<i>Onopordum acanthium</i>	✓ (RW)	✓	✓ (RD)
Smooth brome grass	<i>(Bromus inermis)</i>			✓ (TVP)
Spotted knapweed	<i>Centaurea maculosa</i>	✓ (PW)	✓	✓ (P)
Spurge laurel (Daphne)	<i>(Daphne laureola)</i>			✓ (TVP)
St. John's wort	<i>Hypericum perforatum</i>		✓	✓ (TVP)
Sulphur cinquefoil	<i>Potentilla recta</i>	✓ (RW)	✓	✓ (RD)
Tansy ragwort	<i>Senecio jacobea</i>	✓ (PW)	✓	✓ (P)
Tartary buckwheat	<i>Fagopyrum tataricum</i>	✓ (RW)		✓ (RD)
Teasel	<i>Dipsacus fullonum</i>		✓	
Velvetleaf	<i>Abutilon theophrasti</i>	✓ (PW)		✓ (P)
White cockle	<i>Lynchis alba</i>	✓ (RW)		✓ (RD)
Wild chervil	<i>Anthriscus sylvestris</i>	✓ (RW)		✓ (RD)
Wild mustard	<i>Brassica kaber</i>	✓ (RW)		✓ (RD)
Wild oats	<i>Avena fatua</i>	✓ (PW)		✓ (P)
Yellow (flag) iris	<i>Iris pseudacorus</i>		✓	✓ (FW/RVP)
Yellow nutsedge	<i>Cyperus esculentus</i>	✓ (PW)		✓ (P)
Yellow salsify	<i>(Tragopogon dubius)</i>			✓ (TVP)
Yellow starthistle	<i>Centaurea solstitialis</i>	✓ (PW)	✓	✓ (P)
Yellow (common) toadflax	<i>Linaria vulgaris</i>	✓ (PW)	✓	✓ (P), ✓ (TVP)