Animal Welfare:

Non-compliance Guidelines for issues of moderate or severe¹ non-compliance with the Code of Practice under Amending Order 16

May 2015

Please note that the Board does not regulate animal welfare. Rather, by approving Amending Order 16 (AO16), the Board has set a standard for animal welfare (the mandatory Code)—as an incident of orderly marketing.

This document outlines the applicable timelines and steps required for three categories of situations under the animal welfare inspections program at the BCMMB: 1) moderate non-compliance; 2) severe non-compliance and the suspension of milk pick-up; and 3) the reinstatement of milk pick-up, following a suspension.

The timelines outlined in the next three charts are "generic" and represent "best-case scenarios" for each category as written. Variation is expected on a case-by-case basis. Several additional days may need to be added or shortened to hours for any of the processes, depending on: the circumstances of the "non-compliance;" the conditions at the farm; the extent of the cooperation of the producer; the availability of the Board to make decisions; and the geographic location of the farm.

The common law imposes a duty of procedural fairness on every public authority making administrative decisions that may affect the rights, privileges or interests of a person. This means that, under AO16, the Board is obliged to respect the rules of procedural fairness in the process of its administrative decision-making. Procedural fairness, also called natural justice, requires that a person receive a fair and unbiased hearing before a decision is made that will impact on their rights or interests. What constitutes a fair and unbiased hearing will vary from case to case according to circumstances. Accordingly, throughout the Board's inspection process, producers will be notified and engaged. And, in issues of moderate and severe noncompliance, producers will also be given an opportunity to be heard by the Board before such decisions are made. In cases of severe non-compliance, processors may be consulted regarding orderly marketing.

The Board must also comply with the Freedom of Information and Protection of Privacy Act (FOIPPA), while providing a transparent decision-making process and communication with stakeholders.

¹ In cases of severe non-compliance with the Code or suspected "animal cruelty," the BC SPCA, the Ministry of Agriculture and the BC FIRB will be notified. See relevant process steps under "Severe non-compliance with the Code," p.3.

1) Timeline and Steps: Moderate Non-Compliance with the Code (after October 2015)² Steps below are listed in sequence but may vary from case-to-case.

Day 1	Farm inspected: Inspectors find situation that they consider to be an issue of moderate non-compliance with the Code.
Day 1-2	Inspectors identify the non-compliance concerns in report to AWRIC. Inspectors explain to producer that corrective actions are required for compliance with the Code, and that the BCMMB and BCDA will follow up with the producer. The inspection report will be provided to the producer within two business days of inspection.
Monthly	AWIRC meets, reviews report, confirms moderate non-compliance assessment of inspectors and makes recommendations to Board for corrective actions.
Monthly	Board meets, reviews AWIRC's recommendations and corrective actions. Inspection report provided to producer, with list of corrective actions, possible non-compliance actions, follow-up inspection timeline and offer producer opportunity to be heard on the issue.
Monthly	Board allows the producer to be heard and producer may request exemption from non-compliance actions with rationale. Board may decide to exempt non-compliance actions for an interim period while progress on corrective actions are monitored by inspectors.
Day 1-2	Board requests producer education and training by BCDA with agreement from
after	producer (FOIPPA). Producer regional association requested to provide training
Board	support with BCDA.
meeting	
Within 4-	Farm is inspected a second time to monitor progress towards Code compliance.
8 weeks	If producer is now in compliance with the Code, non-compliance actions will not
of 1st	apply; however the farm is still subject to future inspections. If farm is found to
inspection	be non-compliant, see continuing steps below.
Monthly	The Board makes the decision, based on AWIRC's recommendations, producer's
	progress and input and decides to invoke non-compliance actions. Producer is notified via same-day phone call, and a registered letter, which includes the
	inspection report, corrective actions, avenues of appeal, an offer to be heard by
	the Board; and a timeline for the next inspection. Producer non-compliance
	actions are minimum of 5 weeks. BCDA notified of non-compliance actions while
	respecting FOIPPA.
Monthly	Producer may appeal to FIRB at any time within 30 days of decision. Producer
,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	has opportunity for dialogue with Board.
Quarterly	Follow-up inspections. BCDA training progress reports provided to Board.

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² Prior to October 2015, the Board is in a transition stage and moderate non-compliance issues will be handled differently. For example, the producer will be given an opportunity (within a defined time period) to come into compliance and be given technical training and support by BCDA prior to any non-compliance issues being applied. Please see BCMMB: Animal Welfare Industry Program, Current Rules and Procedures, p.2 for more details: http://bcmilkmarketing.worldsecuresystems.com/governance/animal-welfare-code-of-practice

Monthly	Inspection Reports reviewed by AWIRC. Recommendation(s) to Board.
Minimum	Board meets, reviews AWIRC recommendations. Board decides to remove non-
5 weeks	compliance actions. Producer and BCDA are notified. If no progress or non-
	compliance gets severe - See Suspension of Milk Pick-up.

2) Timeline and Steps: Severe non-compliance with the Code and Suspension of Milk Pick-up

<u>In cases of suspected "animal cruelty," ³ the timelines may be shortened on a case-by-case basis to hours instead of days.</u> Steps below are listed in sequence but may vary from case-to-case.

Day 1 Farm inspected: Inspectors find situation that they consider severe non- compliance with the Code, or suspect it may be considered "animal cruelty." Day 1 Inspectors identify the major issues of concern and prepare an urgent report to AWIRC. Inspectors explain to producer that there are potentially serious violations of the Code and that the BCMMB will follow up with the producer. Inspectors immediately contact BCMMB management. Day 1 BCMMB management requests clear written report from inspectors and calls urgent AWIRC meeting to review report. Board contacts independent expert consultant. Day 1-2 AWIRC meets, reviews report and makes recommendation to suspend license until producer is compliant with the Code. Draft priority corrective actions provided to the Board. AWIRC works with independent expert consultant. Day 2+ Board meets, reviews AWIRC's recommendations, the inspection report and draft priority corrective actions. The inspection report and corrective actions are provided to the producer within two business days of inspection. Day 2+ The Chair, a Board member or senior staff from the BCMMB contact the producer and discuss the severity of the situation. Allow the producer to be heard. Board decision if additional expert inspection(s) is/are required. Day 2+ The Board makes the decision, based on AWIRC's recommendations, producer's input and decides to suspend license and milk pick-up ceases immediately. Producer is notified via same-day phone call, plus registered letter, which includes: the inspection report, advice regarding avenues of appeal, corrective actions and process required before license could be reinstated. A timeline for the next inspection will also be advised. Day 2+ License suspended; Milk pick-up ceases; processors notified. Day 2+ BCSPCA, Ministry and BCDA notified of a milk suspension while respecting FOIPPA. Notice of Suspension posted on Board web-site for transparency but producer name is withheld to follow FOIPPA guidelines.		
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Day 2+	Producer may appeal to FIRB at any time within 30 days of decision. Producer has opportunity for dialogue with Board. Any Appeal, including the producer's name would be posted on website for transparency. Processors and other authorities, as required, are provided with summary reports and status.
Day 2+	Processors are not required to accept milk from the producer since milk pick-up has been suspended. Delivery to processors from the producer has been stopped since there is no milk pick-up. Processors are consulted regarding potential market and brand impacts. Board may need to provide transparent information and Notices via web-site and media response.
Day 3+	Follow-up inspections (assume minimum 3 days for producer to correct; however, this will vary substantially with circumstances). Reports provided to AWIRC to monitor and advise the Board. Board engages independent expert consultant to conduct inspections of the farm and work with AWIRC. Both announced and unannounced inspections planned.
Day 3+	Inspections and suspension will continue until farm is found to be fully compliant, at which time reinstatement will be considered by the Board. (See "Reinstatement of milk pick-up")

3) Timeline and Steps: Reinstatement of milk pick-up after incident of severe non-compliance with the Code

Steps below are listed in sequence but may vary from case-to-case.

Day 5+	Board meets, reviews AWIRC and Independent Expert recommendations.
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following	AWIRC confirms to the Board that corrective actions are in place, and no
suspension	longer non-compliant with the Code. Consistent with the duty of procedural
of milk	fairness, processors have opportunity to be heard regarding possible market
pick-up	impact and options for orderly marketing. The Board will consult with
	processors using one or more of the current committees: Processor
	Communication Working Group; BCDC Board meetings. Processors provide
	information regarding market impact and reasonable efforts to achieve
	marketability of qualifying milk. Board will apply SAFETI principles for
	decision-making.
Day 5+	Board decides either to maintain suspension or to reinstate producer's license.
	Upon inspection by BCSPCA, in cases of confirmed animal cruelty, the Board
	may also cancel the producer's license.
Day 5+	Board decides to reinstate producer's license. Producer and BCDA notified.
	Processors are notified. Additional moderate non-compliance actions on
	producer still apply for minimum period. Decision(s) posted on Board web-site
	for transparency.
Day 5+	Processor(s) may decline milk delivery. Subject to milk refusal surcharge as per
	AO 16. Board may decide to <u>not</u> apply the refusal surcharge pending further
	discussions with processors using one or more of above committees.

Day 5+	Milk pick-up resumes. Letter sent to producer with timeline of follow-up
	inspections, both announced and unannounced.
Day 5+	Processor(s) decision to accept/not accept delivery of qualifying milk. Milk
	refusal surcharge may be applied. Processors or Producer may appeal to BCFIRB
	within 30 days of decisions.

Additional Considerations:

Board has discretionary power to apply or waive sanctions in Amending Order 16 based upon AWIRC recommendations and procedural fairness for producer and processors.

Potential reasons to waive sanctions for producer or processor (not exhaustive list):

- 1. Transition phase for animal welfare industry program
- 2. Need for further consultation
- 3. Reasonable expectation that compliance with C.O. can be achieved
- 4. Reasonable efforts to achieve marketability of milk