

BC Milk Marketing Board- Animal Welfare Industry Program
Current Rules and Procedures
Discussion Document
March 2015

I. Background

At the June 26, 2014 Industry meeting on Animal Welfare, the Board received consensus input from all stakeholders to establish a mandatory code for animal care as soon as possible in order to re-establish public confidence. On August 1, 2014, BCFIRB directed the Board to adopt enforceable standards they consider necessary and appropriate to fulfill responsibilities under the NPMA. On September 24, 2014, the Board approved Amending Order 16 (AO16), which makes the on-farm requirements of the NFACC ***Code of Practice for the Care and Handling of Dairy Cattle (Code)*** mandatory for all BC producers effective October 1, 2014. In its September 25, 2014 Notice to Industry, the Board noted that input from stakeholders would be sought for the detailed policy implementation of AO16.

The Board is currently conducting a consultation for further input on the Animal Welfare Industry program to implement AO 16.

II. Consultation Feedback to Date

The Board received feedback at the fall producer meeting in December 2014 and anticipates further input from processors plus spring producer meetings in March 2015.

Stakeholder input to date has noted the need for efficiency with one inspection program, education and training, and to ensure a credible industry program for public confidence.

III. BCMMB Guiding Principles for Dairy Animal Welfare

1. BCMMB regulates the orderly marketing of milk with stakeholder input using FIRB SAFETI principles. BCMMB does not regulate animal welfare—it has set a standard for animal welfare (the mandatory *Code*)—as an incident of orderly marketing.
2. Any mistreatment of animals is absolutely unacceptable.
3. Maintain regulatory credibility through independent inspections and decision-making.
4. Uphold duty to ensure procedural fairness and sound governance as a public authority.
5. Maintain a credible, inclusive, accountable and transparent process.
6. Strive towards efficient and effective coordination with the DFC proAction[®] animal care program, which is the on-farm quality assurance program based on the NFACC *Code of Practice*.

IV. Current Rules and Procedures

Transition Period

- 1) As stated at the fall producer meeting, the Board will focus on training and education for compliance with the *Code* during a “transition period” for the implementation of the mandatory *Code*. The Board plans to provide this transition period until October 2015, at which time convergence with the DFC proAction[®] animal care program will be considered.¹

Inspections during the Transition Period

- 2) The Board will continue to conduct complaint-driven farm inspections to ensure credibility and confidence with the public, processors and producers. As of **October 1, 2014**, the Board became legally accountable to ensure compliance of the mandatory *on-farm* requirements of the *Code*. Thus, the Board is obligated to follow up where violations of the *Code* are made known to the Board, and are subsequently verified by an independent inspector as appointed by the Board. During the transition period, the Board will focus on education and training to allow a producer who may be found to be moderately non-compliant with the *Code* to come into compliance before applying any non-compliance actions. For example:
 - a) If a Board appointed inspector finds an issue of moderate non-compliance during this transition period, the producer will first receive a letter which explains the issue of non-compliance with a clear period of time to allow the producer to address the issue. The full inspection report will be disclosed to the producer as well. The BCDA would also be asked to provide technical assistance and training as may be needed for the producer to come into compliance.
- 3) During the transition period, the Board will also invite BC dairy industry leaders to participate in the Board’s inspection process to build on the DFC/BCDA’s proAction[®] producer training. The goal is to ensure that dairy industry leaders have a clear understanding of the *Code*’s requirements and will be able to share that knowledge and their experience with the inspection process with their peers. To that end, the BCMMB producer members will participate in farm inspections during the transition.
- 4) During the transition period, the Board will also randomly select farms for inspection, but again with the focus on training and education. The goal is to ensure that producers are aware of the *Code*’s mandatory on-farm requirements.

¹ The Board’s plan to consider the DFC/BCDA proAction[®] animal care program is possible because of the DFC/BCDA accelerated timeline for the implementation of the proAction[®] education and validation components, which is expected to be refined and in place by October 2015.

- a) Randomly selected farms for inspection means that a farm, once selected, will be given a minimum of two weeks' notice that a Board-appointed inspector(s) will be visiting their farm and will use the appropriate proAction[®] checklist to review their farm operation. The inspection report will be sent to the Animal Welfare Inspection Review Committee (AWIRC)—the committee of technical experts—to ensure that a fair and comprehensive inspection was done. Any follow-up recommendations from AWIRC will be provided to the producer (along with the original inspection report) for *Code* compliance.
- 5) During the transition period and beyond, the Board will act immediately on any confirmed severe non-compliance with the *Code*. Please see ***Inspection Results and Next Steps*** (paragraph 13) for more detail.
- 6) During the transition period, all inspection reports will be reviewed by AWIRC, and only severe non-compliance issues will be reviewed by the Board.
- 7) The rules and procedures for farm inspections, outlined in ***section V***, below will be updated based upon stakeholder consultation and experience during the transition period.

V. Inspections after October 2015

- 8) The Board will continue to conduct complaint-driven and randomly-selected farm inspections after October 2015.
- 9) The Board will also employ a risk-based approach to inspections of farms after October 2015 as deemed necessary by the Board.

DFC/BCDA proAction[®]

- 10) The proAction[®] animal care program recently completed its pilot project in BC. The refined program is expected to be approved by the DFC in July 2015; and producer technical support and training will be increased at that time. The proAction[®] validation (including animal care assessments) are expected to begin their two-year validation cycle by October 2015.

Therefore, after October 2015, the Board will assess the refined DFC/BCDA proAction[®] animal care program to determine if and how to efficiently and effectively combine the training, inspection, validation and compliance into one program for BC producers.

Animal Welfare Inspection Review Committee (AWIRC)

11) After October 2015, AWIRC will review all inspection reports not fully compliant with the *Code*, and provide recommendations to the Board on actions to be taken.

12) AWIRC’s responsibilities include:

- a) Review inspection reports; assess the severity of the non-compliance issues. (minor, moderate to severe)
- b) Determine a reasonable period of time that should be given to the producer in order to correct the issues.
- c) Make recommendations to the Board based on those assessments.

➤ *If the non-compliance issues are not corrected, further non-compliance actions may be assessed against the farm. AWIRC will review follow-up inspection reports and make further recommendations to the Board. The Board has discretionary authority to determine non-compliance actions.*

Inspection Results and Next Steps

13) Inspection reports will vary in results, but generally it is expected that the completed reports will fall into one of the following four categories:

Report Result	Next Steps
Farm fully compliant with all on-farm requirements of the <i>Code</i> .	Report left with farm. Results recorded in BCMMB database of farm inspections. No further steps.
Farm minor non-compliance with the <i>Code</i> .	Report left with farm identifying corrective actions. Report also referred to AWIRC; and follow-up inspection will be done in a reasonable period of time. Producer will be notified and engaged throughout process.
Farm moderate non-compliance with the <i>Code</i> .	Inspection report referred to AWIRC for assessment and recommendations to the Board. Producer will be notified and engaged throughout process.
Severe violation(s) of the <i>Code</i> and/or suspected cases of “animal cruelty.”	<u>Urgent</u> review of inspection report by AWIRC—recommendations made immediately to Board for decisive action. Producer will be notified and engaged throughout process. In suspected cases of “animal cruelty,” the BC SPCA, the Ministry of Agriculture and BC FIRB will be notified.

- 14) If, at any time, a Board appointed inspector, whether following up on a verified complaint or on a random inspection basis, encounters a situation which the inspector suspects may be a situation of “animal cruelty,” this situation will be reported immediately to the AWIRC. A clear written report must be provided both to AWIRC and the producer. The producer will also be given the opportunity to respond. *For more detail, see **section VII**.*
- 15) The Board must apply a Duty of Procedural Fairness in all situations of non-compliance. After reviewing the inspection reports, AWIRC would make its assessment and recommendations to the Board in all situations of non-compliance with the *Code*. However, all decisions of non-compliance actions are ultimately taken at the discretion of the Board.
- 16) If, at any time, milk pick-up is suspended by the Board as a result of non-compliance with the *Code*, reinstatement of milk pick-up would require any/all conditions that led to the suspension to be remedied and assurance provided therein by further ongoing independent inspections as instructed by the Board. *For more detail, see **section VII**.*
- 17) The Board considerations to waive non-compliance actions may include: a) Transition Period; b) Inadequate evidence of non-compliance; c) Reasonable expectations from AWIRC that the producer can achieve acceptable compliance within one month; d) Duty of Procedural Fairness.

VI. Provincial Legislation, the *Code* and “animal cruelty”

Provincial Legislation concerning Animal Welfare

18) An animal is considered to be in distress, by the *Prevention of Cruelty to Animals Act (PCAA)*, if the animal(s) is:

- deprived of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment,
- kept in conditions that are unsanitary,
- not protected from excessive heat or cold,
- injured, sick, in pain or suffering, or
- abused or neglected

➤ The *PCAA* empowers the BC SPCA to intervene if animals are in distress.

The Code of Practice

- 19) The NFACC *Code of Practice for the Care and Handling of Dairy Cattle* was developed by a consensus process, including a scientific committee and a broad representation of stakeholders. It is meant to provide guidelines to “promote sound management and welfare practices through recommendations and requirements.” The *Code* is not meant specifically to prevent “animal cruelty,” nor does it define “animal cruelty” within its guidelines.
- 20) The Board does not intend to define “animal cruelty,” but rather will rely upon the independent inspectors’ reports and the expert opinion of AWIRC’s technical advice and recommendations. And in suspected cases of “animal cruelty,” the Board will act as outlined in ***Inspection Results and Next Steps*** (paragraph 13).

VII. Suspension/Cancellation of License

- 21) If a Board-appointed inspector encounters a situation which they consider to be a severe violation of the *Code* or, in fact, suspects that it may be considered a case of “animal cruelty,” the inspection report is immediately referred to BCMMB management, who will call an urgent meeting of AWIRC to review the report.

A clear written report must be provided both to AWIRC and the producer. The producer will also be given the opportunity to respond. The following steps will be followed:

- i. AWIRC reviews inspection report and if they agree with inspection findings that this is a severe violation and/or a suspected case of “animal cruelty,” AWIRC writes its recommendations and immediately notifies the Board of those recommendations.
- ii. Other authorities will be notified as appropriate, for example: BC SPCA, BC Ministry of Agriculture, BC FIRB.
- iii. The Board meets (by TCC, if necessary) and determines based on AWIRC recommendation and inspection report which sanctions of AO 16 apply. In cases of severe violation or suspected cases of “animal cruelty”, Section 28.1 (3) will apply and the producer’s license would be immediately suspended and milk pick-up would also cease immediately. The Board will also determine the re-inspection timeline and the requirements before license would be reinstated (based on AWIRC’s technical recommendations). The producer will be notified in writing, with inclusion of inspection report and clear rationale for the sanction and advised of avenues for appeal. In addition, the producer would also be contacted by telephone and advised of the same information which will be sent via registered letter: that their license is suspended (for a minimum period of time) and milk pick-up by the Board will cease effective immediately.

- iv. Each inspection report in the follow-up process would be reviewed again by AWIRC and recommendations made to the Board regarding additional inspections and license reinstatement as deemed appropriate by AWIRC.
- v. BCDA would be advised and consulted on appropriate follow-up training and compliance actions for the producer throughout the process of suspension, follow-up inspections and reinstatement of license as appropriate.
- vi. If/when milk pick-up is suspended at a farm, processors will be notified immediately of the suspension, the circumstances and the conditions for reinstatement.

Reinstatement of License

22) The written requirements before a producer's license may be reinstated would be included in the original notification of license suspension to the producer —as well as a timeline for follow-up independent inspections, corrective actions, and avenues for appeal.

- i. Each inspection report in the follow-up process would be reviewed again by AWIRC and recommendations made to the Board regarding additional inspections and license reinstatement as deemed appropriate by AWIRC.
- ii. If/when milk pick-up is resumed at a farm (the license is reinstated), processors will be notified immediately.
- iii. BCDA would be advised and consulted on appropriate follow-up training and compliance actions for the producer throughout the process of suspension, follow-up inspections and reinstatement of license as appropriate.

VIII. Independent Program Validation

23) Once the program of *Code* compliance and inspections is well-established, an external expert organization will be engaged to conduct **Independent Program Validations**. This is intended to provide ongoing assurance for everyone along the dairy value chain including processors, producers and consumers. In other words, the Board plans, in future, to institute third party audits of the overall program.

For Producers' Consideration and Feedback:

Questions:

- 1) Is a transition period to October 2015 a reasonable and credible way to approach the implementation of the animal welfare industry program and ensure mandatory compliance with the *Code*?

- 2) Do you have any feedback or further considerations for the Board regarding the Rules and Procedures?

Appendix 'A': Dairy Animal Welfare as an Incident of Orderly Marketing Decision Process

