



September 22, 2016

File: 0120-0140 ADMIN PEN

DELIVERED BY EMAIL

Robin Smith, Chair
BC Chicken Marketing Board
101- 32450 Simon Avenue
Abbotsford, BC V2T 4J2

Dear Mr. Smith:

ADMINISTRATIVE PENALTIES – FRAMEWORK AND APPLICATION

Thank you for your letter dated June 30, 2016 and received July 8, 2016 requesting written assurance from the BC Farm Industry Review Board (BCFIRB) that the BC Chicken Marketing Board (Chicken Board) can “opt out” of the Administrative Penalties Framework (“Framework”), currently under development, on the basis that its existing penalties to enforce mandatory biosecurity programs are more appropriate.

The Framework is being developed by an Administrative Penalty Working Group, comprised of commodity board staff and members, BCFIRB and Ministry of Agriculture staff, established in early 2016. The Framework is being developed to:

1. Demonstrate that commodity board administrative penalty policies and procedures will be developed in a manner that meets the intent of the Province’s objectives and legislation, specifically sections 16.2 and 16.3 of the *Natural Products Marketing (BC) Act*, not yet in force. These sections will not come into force until a Cabinet regulation is passed.
2. Establish BCFIRB’s supervisory expectations, directions and prior approval requirements.
3. Guide the commodity boards in developing their administrative penalty policies and procedures and to ensure commodity board support of these expectations, directions and requirements.

While the Framework is still under development, it will include BCFIRB’s overall supervisory expectations in relation to risk management, mandatory biosecurity programs and enforcement. It will also set out BCFIRB’s prior approval requirements should a commodity board choose to use administrative penalties as an enforcement tool once the legislation is in force.

It is important to note that the Framework will not require commodity boards to implement administrative penalties for the following reasons:

British Columbia
Farm Industry Review Board

Mailing Address:
PO Box 9129 Stn Prov Govt
Victoria BC V8W 9B5
Telephone: 250 356-8945
Facsimile: 250 356-5131

Location:
1ST Floor, 780 Blanshard Street
Victoria BC V8W 2H1
Email: firb@gov.bc.ca
Website: [www.gov.bc.ca/BCFarmIndustryReview Board](http://www.gov.bc.ca/BCFarmIndustryReviewBoard)

- a. the administrative penalty sections (not yet in force) of the *Natural Products Marketing (BC) Act* do not require commodity boards to use administrative penalties; and,
- b. BCFIRB recognizes that administrative penalties may not be a suitable enforcement tool for all mandatory biosecurity programs and/or particular offenses.

Notwithstanding, BCFIRB has concluded that the use of administrative penalties for mandatory biosecurity programs will contribute to sound marketing policy as:

- biosecurity programs (prevention) and administrative penalties (enforcement) are two principal components of an effective risk management regime to assure orderly marketing; and,
- existing enforcement tools are significantly enhanced by their use and can be used to swiftly address minor to very serious violations -- making biosecurity programs more effective.

The Framework will state that commodity boards *may* include administrative penalties as part of their enforcement of mandatory biosecurity programs. If, through sound application of SAFETI¹ analysis, a commodity board determines that it is not strategic or effective to utilize administrative penalties in support of sound marketing policy, that board should be prepared to provide sound justification for that decision to BCFIRB and its stakeholders. In other words, the board will need to be able to demonstrate to BCFIRB and their stakeholders that they have an effective and appropriate enforcement system in place for their mandatory biosecurity programs that supports orderly marketing.

I trust this information addresses the concern raised in your letter. Should you have any further comments that you think would be of value to the Framework, I encourage you to send them to BCFIRB c/o Beth Sobieszczyk at Beth.Sobieszczyk@gov.bc.ca or 250-387-3942.

Yours truly,



John Les
Chair

Cc:

Chair, BC Broiler Hatching Egg Commission
Chair, BC Egg Marketing Board
Chair, BC Milk Marketing Board
Chair, BC Vegetable Marketing Commission

Chair, BC Cranberry Marketing Commission
Chair, BC Hog Marketing Commission
Chair, BC Turkey Marketing Board

BCFIRB Website

¹ Strategic Accountable Fair Effective Transparent Inclusive