

BC Poultry Infected Premises Cleaning and Disinfection Cost Recovery Fund

Joint Submission of:

British Columbia Broiler Hatching Egg Commission
British Columbia Chicken Marketing Board
British Columbia Egg Marketing Board
British Columbia Turkey Marketing Board

Insert Date

Executive Summary

The financial risks of a Notifiable Avian Influenza (NAI) discovery in British Columbia have been well documented through the experience gained and lessons learned from the response and recovery to outbreaks in 2004, 2005, 2009 and 2014. Some of the loss attributed to the ordered destruction of birds on confirmed infected premises (IP) is compensated by the Canadian Food Inspection Agency under the authority of the *Health of Animals Act*. The financial responsibility for the extraordinary costs of cleaning and disinfecting (C&D) IPs to enable the restocking of farms is left to the IP owner. Prior outbreaks have illustrated the need for industry and government financial assistance to effect the prompt initiation and completion of IP C&D and industry recovery and timely return to a system of orderly marketing. Governments indicated following the 2014 outbreak that requests for future assistance under AgriRecovery would not be entertained.

The absence of a plan or program to address the financial gap in covering the extraordinary cost to C&D IPs following a NAI discovery creates significant risk to the system of orderly marketing. Depending on the nature of the NAI discovery, poultry farms within the 3 km Infected Zone are precluded from restocking their operations until such time that the IP has completed, and CFIA has signed off on the C&D of the farm. There were 150 commercial poultry farms within 1 km and 254 commercial farms within 10 km of the 11 infected commercial farms in the 2014 Highly Pathogenic Notifiable Avian Influenza outbreak. The timing and ability of these farms to restock was dependent upon the 11 infected premises completing their C&D process. During the 2014 outbreak, some IP owners expressed concern over the extraordinary cost of cleaning and disinfecting. The costs in 2014, ranged from \$2.00 to \$4.50 per bird or \$6,000 to \$350,000 per farm and in some cases resulted in delays in the initiation of the C&D process. Approximately 240,000 birds were ordered destroyed in 2014 with a total C&D cost of just under \$700,000.

Through a five phase review process, the regulated poultry boards and commission determined the need to ensure that a specific dedicated program to address the extraordinary costs of IP C&D is established in order to minimize delays by the IP in initiating and completing the C&D process and to facilitate a timely return to a system of orderly marketing. The Review pointed out that internalizing the extraordinary cost of C&D of IPs was in keeping with sound marketing policy. The ability to provide funds to minimize the extraordinary cost of IP C&D provide the necessary incentive for IP owners to promptly initiate and complete the C&D process to enable a timely return to a system of orderly marketing over a regulatory compliance based approach.

The evolution of poultry disease insurance in Canada has enabled egg producers the opportunity to secure insurance for losses due to Salmonella Enteritidis (SE) and NAI. The BC Egg Marketing Board has accepted the availability of insurance through CEIRA or other private insurance policies as providing the necessary level of C&D coverage to support a BC policy to address the financial gap for the extraordinary costs of IP C&D for BC egg producers.

Prior Supervisory Approval Request

The British Columbia Broiler Hatching Egg Commission, the British Columbia Chicken Marketing Board, the British Columbia Egg Marketing Board and the British Columbia Turkey Marketing Board request BC Farm Industry Review Board prior supervisory approval for the IP C&D desired policy outcome and proposed approach through a combination of collective internal funds and insurance to address the critical financial gap in order to facilitate the prompt initiation and completion of IP C&D. The request is in keeping with the August 14, 2014 BC FIRB Order that “Should one or more of the boards propose proceeding with a more limited regulatory solution, that solution is to be submitted to BCFIRB with rationale, for prior supervisory approval.” SAFETI principles were applied in the boards and commission’s decision making process leading to this request.

Table of Contents

Executive Summary.....	i
Prior Supervisory Approval Request	ii
Introduction:	1
The Problem	2
Purpose	3
Background.....	3
Authorities for Board and Commission Intervention.....	3
Mandatory Insurance	3
Use of Board Orders	4
Use of levies to pay costs and losses	4
Desired Policy Outcomes	4
Coverage of IP C&D Costs.....	5
Sources of Financial Intervention for IP C&D	5
Government Sources.....	5
Private Insurance Products	6
Industry-led Insurance Products (CEIRA and PIE)	6
Boards and Commission Levies	7
Proposed Approach.....	7
Request to BC FIRB	8
Sound Marketing Policy	8
Risks and Challenges.....	9
Industry/Stakeholder Engagement.....	10
Recommendation	10
SAFETI Principles.....	11
Attachment 1 – Fund Agreement.....	13
Attachment 2 – BCEMB Risk Mitigation Plan.....	14
Attachment 3 – Memorandum of Understanding	15

Introduction:

In February 2004 Highly Pathogenic Notifiable Avian Influenza (HPNAI) was discovered on a broiler breeder operation in Abbotsford. This was the first reported incident of the disease in British Columbia. The end result was the ordered destruction of nearly 15 million birds with a total economic impact of \$391.2 million. The 2004 discovery and subsequent discoveries in 2005, 2009 and 2014 have provided the poultry industry with important and valuable lessons learned to improve the overall management and response to Notifiable Avian Influenza (NAI) discoveries in BC.

The experience gained from the 2004 and subsequent outbreaks of NAI led the regulated poultry industry in British Columbia to undertake a risk assessment which resulted in the development and implementation of a four-part Risk Mitigation Strategy designed to enable quick, effective and efficient industry response to and management of future NAI discoveries. The Strategy has proven to be successful; particularly with respect to two of the four parts, mandatory biosecurity and enhanced industry emergency preparedness which has minimized the extent of subsequent outbreaks and improved the overall response and recovery. The remaining two parts, enhanced surveillance and financial risk management remain a work in progress, but are important elements in further enhancing the BC poultry industry's management of, and recovery from the risks of future NAI discoveries.

Mandatory Disease Insurance was the subject of a British Columbia Farm Industry Review Board (BC FIRB) Supervisory Review initiated in June 2013. In August 2014, the Supervisory Review resulted in a BC FIRB Order that:

- “the boards are directed not to exercise their regulatory authority under their schemes at this time for the purpose of supporting the proposed captive insurance company.”
- “Should one or more of the boards propose proceeding with a more limited regulatory solution, that solution is to be submitted to BCFIRB with rationale, for prior supervisory approval.”¹

Following the 2014 HPNAI outbreak and amendments to the *Natural Products Marketing (BC) Act* (the “NPMA”), the British Columbia Broiler Hatching Egg Commission (the “BCBHEC”), the British Columbia Chicken Marketing Board (the “BCCMB”), the British Columbia Egg Marketing Board (the “BCEMB”) and the British Columbia Turkey Marketing Board (the “BCTMB”) (collectively referred to as the “boards and commission) have been working collectively to assess the impact and effects of NAI discoveries on their ability to maintain a system of orderly marketing and whether or not requiring producers to maintain disease insurance is consistent with sound marketing policy. The Joint Submission describes the analysis and approaches for the boards and commission to facilitate a timely return to system of orderly marketing following a NAI discovery.

¹ Supervisory Decision – Sound Marketing Policy and Board Authority – Mandatory Poultry Disease Insurance
August 14, 2014 British Columbia Farm Industry Review Board Letter

The Problem

A NAI discovery in BC not only affects the infected premise (IP) but also the poultry operations in close proximity to the IP. The *Health of Animals Act* (the “*HoA Act*”) administered by the Canadian Food Inspection Agency (the “CFIA”) enables the federal government to declare “Infected Place” on all premises within 1 to 3 kilometers of a premise where NAI has been suspected, presumed or confirmed which and is referred to as the “Infected Zone”. In a HPNAI discovery all commercial premises within the 3 km zone would receive a Declaration of Infected Place by CFIA. The designation means that the commercial poultry premises whether being confirmed positive for NAI or not are restricted from repopulating their operations until such time as the CFIA revokes their Declaration of Infected Place. The revocation usually does not occur until 21 days after the CFIA has inspected and signed off on the IP’s cleaning and disinfection (C&D) process and no further positive cases have been identified through surveillance of the Infected Zone within the next 21 days.

The extraordinary costs of IP C&D are not compensated under the *HoA Act*; they are the responsibility of the IP owner. Experience from prior NAI discoveries has demonstrated the need for financial intervention by the industry as a whole and by government in order to facilitate timely action by IP owners to initiate and complete the C&D process. The need has arisen due to the complexity created, timing and logistics required by the large number of IPs (2004) requiring C&D or due to the significant financial impediment (2014) to the IP owner resulting from the C&D process that would cause significant delay in commencement and completion of the process. In 2014, to minimize the potential delays to initiating IP C&D, the federal and provincial governments made a commitment to initiate the process to provide financial relief for the extraordinary costs of IP C&D through the AgriRecovery Program during the outbreak.

The federal and provincial government made it clear following the 2014 HPNAI occurrence that industry can no longer expect government financial support for future NAI discoveries. While a number of programs and policy tools exist for the boards, commission and industry to use in response to a NAI discovery, there is a lack of a specific dedicated program or system of support for the extraordinary costs of IP C&D following a NAI discovery. The existing programs and policy tools are limited in their ability to comprehensively address the variable range of C&D costs which are dependent on the type, size and structure of the operation. The degree to which the IP owner is willing to accept the financial responsibility to pay those costs during a time of extreme stress brings into jeopardy the BC poultry industry’s timely return to a system of orderly marketing.

The interdependencies of the four poultry sectors necessitate the need for the boards and commission to take a collective and coordinated approach to address the extraordinary cost of IP C&D associated with an NAI discovery. It is recognized and accepted that irrespective of which sector may have the IP, all four sector are impacted by the need for the IP to have completed C&D to the satisfaction of CFIA in a timely manner to enable all regulated poultry producers within the 1 to 3 km Infected Zone to commence restocking.

Purpose

The purpose of this submission is to request BC FIRB prior supervisory approval of the industry plan to enable a strategic approach to facilitate an effective and timely return of the industry to a system of orderly marketing following a NAI discovery as required by the August 14, 2014 BC FIRB Supervisory Review Order. The critical nature of prompt initiation and completion of IP C&D requires the boards and commission to ensure that the extraordinary costs of IP C&D do not become a limiting factor in returning the poultry industry to a system of orderly marketing in a timely manner.

The boards and commission will outline the plan to address the financial risks associated with the extraordinary costs of IP C&D.

Background

The history of NAI discoveries, financial risks associated with a NAI discovery and an insurance-based approach to address the financial risks have been covered in detail in the January 2014 Joint Submission to the Supervisory Review. A brief summary is provided in Appendix A.

It has long been recognized since the 2004 HPNAI occurrence that considerable dependencies exist between the poultry sectors. The nature of poultry production in British Columbia and the close proximity of various poultry operations, particularly in the Fraser Valley result in a significant number of poultry operations of all production types being captured within an Infected Premise Zone or being declared an Infected Place.

For example, in 2014 CFIA reported that there were 150 poultry farms of all production types within 1 km of an IP. This number represents nearly one-third of the number of registered poultry farms in the Fraser Valley and 25% of the poultry farms in BC. The 150 farms were precluded from restocking until such time as the declaration of Infected Place was revoked. The example illustrates the need for a program response to facilitate the timely return to a system of orderly marketing.

Authorities for Board and Commission Intervention

Mandatory Insurance

The passing of the amendments to the *NPMA* in May 2015 made explicit the authority of boards and commissions to require registered producers to maintain insurance against losses resulting from the interruption or termination of production for any reason or for a notifiable or reportable disease. The regulated poultry boards and commission have given due consideration to the enabling authority through the Mandatory Notifiable Avian Influenza Insurance Review (the “Review”) initiated in January 2016. The purpose of the Review was to conduct the requisite due diligence in accordance with the SAFETI principles for each board and commission to ***make a decision on whether or not to implement mandatory insurance requirements*** to address the financial consequences of NAI discoveries in regulated poultry flocks. A more detailed summary of the Review, the Work Plan and phase reports are included in Appendix B.

Given the findings of the Review, the boards and commission *determined that the need to request and implement mandatory insurance requirements were not necessary at this time*. It was also confirmed that BC FIRB prior supervisory approval of a “more limited regulatory solution” was still required.

Use of Board Orders

The *NPMA* enables the boards and commission “to make orders and rules considered ... necessary or advisable to promote, control and regulate effectively the marketing of a regulated product.”² Such authorities were used by the boards and commission to implement the BC Poultry Biosecurity Program and require producers to be in compliance.

The boards and commission examined the option to introduce orders to effect the immediate C&D of IPs. The Review determined that the effectiveness of such orders to facilitate a timely return to a system of orderly marketing would be frustrated by the administrative requirements to first serve notice and seek compliance prior to initiating enforcement actions. The administrative process would not enhance the ability of the boards and commission to gain compliance in a timely manner as would the provision of a commitment of support to minimize the extraordinary costs of IP C&D.

Use of levies to pay costs and losses

The Review confirmed that a financial response was necessary to respond to a NAI discovery, particularly to address the extraordinary cost of IP C&D. It determined that taking measures to address the extraordinary cost of IP C&D was consistent with sound marketing policy.

The Review established that the boards and commission could put in place and maintain a fund to cover the extraordinary costs of IP C&D within the existing levy structures for each board. It was also determined that a fund established within the existing levy structure would not affect the competitiveness of the BC poultry industry. The Review recommended that risk transfer mechanism be explored to provide coverage for extreme excess loss occurrences.

The *NPMA* provides enabling authorities for the poultry boards and commission to promote, control and regulate the marketing of natural products in BC. In particular, the *NPMA* empowers the board and commission “to set and collect levies ... and to use those levies ... to pay the costs and losses incurred in marketing a regulated product”³. It is based on this authority that the boards and commission have considered establishing a fund to address the extraordinary cost of IP C&D using existing levy structures.

Desired Policy Outcomes

The Review identified gaps in the policy and financial supports to facilitate a timely return to a system of orderly marketing. The boards and commission support the need to ensure that a specific dedicated program or programs to address the extraordinary costs of IP C&D is established in order to minimize delays by the IP in initiating and completing the C&D process and facilitate a timely return to a system of orderly marketing.

² Section 11 (1) (o) (q)

³ Section 11 (1) (o) (iii).

The boards and commission intend to use financial incentives as opposed to other regulatory measures to facilitate the timely initiation and completion of the IP C&D process.

Coverage of IP C&D Costs

The cost to C&D an IP is highly variable between sectors and within sectors, depending on the type of production system employed. To illustrate the variance, in 2014, the cost of IP C&D ranged from \$6,000 to in excess of \$300,000.

The BCBHEC, BCCMB and BCTMB are proposing the use of internally restricted funds to provide financial assistance to IP owners for the extraordinary cost of C&D. To minimize administration and simplify the process and accounting, the three boards will provide the following schedule of coverage to IP owners:

- Hatching eggs \$2.00 per bird
- Broilers \$1.00 per bird
- Turkey broilers \$0.84 per bird
- Turkey hens \$1.44 per bird
- Turkey toms \$2.60 per bird

The payment will be based on the per bird value times the number of quota birds allocated for the production cycle. To ensure a degree of shared risk, the payment will be subject to a 10% deductible.

The BCEMB is satisfied that the level of C&D coverage through CEIRA and private insurance will provide the required financial assistance to IP owners for the extraordinary costs of C&D and not result in delays in the initiation and completion of C&D. The CEIRA coverage provides \$1.75 per bird for C&D plus provided fixed dollar values for other activities related to C&D such as litter/manure heating and disposal and additional cleaning and disinfection expenses. Private insurance for NAI C&D provides fixed amount coverage starting at \$100,000, increasing to \$200,000 for an additional premium.

Sources of Financial Intervention for IP C&D

The poultry boards and commission have identified and assessed a number of potential sources of funds to address the extraordinary costs of IP C&D.

Government Sources

The *HoA Act* provides the authority for the Minister of Agriculture and Agri-Food Canada to provide compensation for birds ordered destroyed. IP C&D is the responsibility of the premise owner and as demonstrated by the 2004 and 2014 HPNAI occurrences can result in significant expenditure of resources. In 2004, BC processors needing to resume an orderly supply of birds and eggs to address BC market demand worked with the boards and commission to cover some of the \$3 million to C&D the 42 commercial IPs. In 2009 and 2014/15, the federal and provincial governments through the AgriRecovery Program provided funding to off-set the majority of the extraordinary cost of IP C&D.

The federal and provincial governments stated following the 2014 HPNAI outbreak that they would not consider future industry requests for financial assistance under the AgriRecovery Program given the recurring nature of NAI in BC. The stated government position and the absence of a coordinated industry-wide financial response leave the infected premise owner with the responsibility and financial burden for the extraordinary costs of C&D.

Private Insurance Products

The development of private sector insurance products in Canada commenced and evolved since 2012. A comprehensive multi-disease insurance policy that includes Salmonella Enteritidis (SE), Mycoplasma Gallisepticum (MG), NAI and Newcastle diseases to cover market loss, placement delays and C&D is currently available. The proprietary nature of the insurance coverage makes it difficult to obtain the specific details on the insurance policies, conditions and costs. The policies have set limits of \$100,000 on C&D which can be increased to \$200,000.

It is not known how many BC regulated poultry producers have purchased disease insurance through the private sector.

The Fund Management Committee explored the option of working with Mutual Fire to provide IP C&D coverage for all registered BC poultry producers. After assessment of the costs and premiums, Mutual Fire declined the opportunity to provide coverage for the regulated poultry industry in BC.

Industry-led Insurance Products (CEIRA and PIE)

CEIRA was established to provide SE insurance for table egg producers in Canada. Since the 2014 HPNAI occurrences, it has worked with the Poultry Insurance Reciprocal Exchange (PIE) and Equipe Quebecoise de Controle des Maladies Avicoles (EQCMA) to develop a NAI insurance product.

CEIRA has extended their SE program to now include NAI coverage. Egg producers in Canada, except Ontario are able to purchase SE and NAI coverage against market loss, placement delays and C&D.

Subscription to CEIRA's insurance is voluntary in BC. The BCEMB does not require producers to purchase SE insurance and is not involved in CEIRA's operation or in the payment of premiums. The vast majority of BC egg producers are CEIRA subscribers, including the BC egg breeder. Egg producers pay the premium to their chick supplier, who in turn remits the premium to CEIRA. The estimated incremental annual premium paid by BC egg producers for the NAI coverage is \$90,000. The BCEMB has reported that up to 6 licenced egg producers are not CEIRA subscribers.

PIE was initially established to provide SE coverage to Ontario hatching egg producers and extended their coverage to include table egg producers. Similar to CEIRA, PIE is in the process of extending the SE coverage to include NAI.

Despite not all licenced egg producers in BC being CEIRA subscribers, the BCEMB are comfortable with relying on CEIRA subscription and the availability of private sector insurance to meet the IP C&D policy outcomes.

BCEMB encouraged the remaining BC boards and commission to explore the option of placing their IP C&D coverage through CEIRA. A meeting was held with CEIRA representatives on October 22, 2018 where CEIRA outlined their requirements for establishing new indemnities.

The Fund Management Committee proceeded with the assessment of expected losses and annual premiums through the use of CEIRA consultants. In November 2018, the Fund Management Committee received the assessment and determined that the cost of the annual premium exceeded the expected benefits of insurance as opposed to self-insuring through a collective fund for hatching eggs, chicken and turkey. It was determined that viable industry self-insurance options could yield similar benefits at the same or less overall cost.

At the same time, the Fund Management Committee respected the decision of the BCEMB to not participate in the collective fund, but asked the BCEMB to provide a plan with respect to ensuring that all registered egg producers have a source of financial resources to cover the extraordinary cost of IP C&D and not contribute to delays in initiating IP C&D and the timely return to a system of orderly marketing.

Boards and Commission Levies

The BCBHEC has contingencies to cover unexpected losses such as NAI and has an internally restricted OBHECC fund of \$1.18 million as of December 31, 2017 from the transfer of quota to Ontario in 2005 that requires BC FIRB prior approval to use the money for funding general projects aimed at supporting overall industry improvements. These funds could be used to support the BCBHEC participation in a self-insurance option without the need to increase levies.

The BCCMB has a Restricted Contingency Fund in place to be used to fund expenditures for unforeseen circumstances with a balance exceeding \$2.5 million as of December 31, 2017. These funds could be used to support the BCCMB participation in a self-insurance option without the need to increase levies. As well, the BCCMB has in previous years, with the exception of 2017, distributed prior year's surplus to growers. From 2013 to 2016, the amount of surplus returned to growers would have been more than sufficient to cover the BCCMB share of contribution to a self-insured option.

The BCTMB has internally restricted funds, including a reserve for self-insurance which was established following the 2004 HPNAI outbreak. The balance as of December 31, 2017 of \$750,000 would be sufficient to participate in a self-insurance option without the need to increase levies.

Proposed Approach

The BCBHEC, BCCMB and BCTMB after assessing various risk transfer options have agreed to proceed with a self-insurance option that would see the use of their existing levy structures or contingencies to establish a “virtual” collective fund. The “virtual” fund would entail each board having in place internally restricted funds for self-insurance for disease costs and losses that are

equivalent to their respective shares. The target for the “virtual” fund is \$3 million. Annual contributions to establish and maintain the \$3 million fund will be set out in a Fund Agreement, including the timelines to reach the target. The Agreement will include provisions regarding the sharing of costs, whether equal shares or shares based on risk and for termination. The Fund Agreement is included as Attachment 1.

The BCEMB has provided a plan for how it intends to address any gaps in insurance coverage of egg producers, i.e. not subscribed to CEIRA or not holding a private insurance policy. The plan is included as Attachment 2.

The four boards have revised and updated the October 2007 BC Poultry Biosecurity Memorandum of Understanding (MOU) Between the British Columbia Poultry Association and the boards and commission to include the agreed to understandings with respect to IP C&D to facilitate the timely initiation and completion of IP C&D to enable a return to a system of orderly marketing. The updated MOU is included as Attachment 3.

Request to BC FIRB

The BCBHEC, BCCMB, BCEMB and BCTMB request BC FIRB prior supervisory approval of the IP C&D desired policy outcome and proposed approach to address the critical financial gap in order to facilitate the prompt initiation and completion of IP C&D. The request is in keeping with the August 14, 2014 BC FIRB Order that “Should one or more of the boards propose proceeding with a more limited regulatory solution, that solution is to be submitted to BCFIRB with rationale, for prior supervisory approval.”

At this time, the boards and commission are not intending to use the authorities under the *NPMA* to require producers to maintain disease insurance. The Review Phase 3 – 5 reports have identified that limiting the boards’ and commission’s financial response to IP C&D falls within their existing authorities to use levy proceeds to cover costs and losses incurred in the marketing of a regulated product. The current board and commission levies and contingencies are sufficient to establish and operate the fund, as such there is limited impact to the competitiveness of the sector. While not requested, imposing the requirement for producers to maintain disease insurance would have led to additional costs for premiums that may have impacted industry competitiveness.

The boards and commission have also examined the option to introduce orders to require the immediate C&D of IPs. The Review determined that the effectiveness of such an order to facilitate a timely return to a system of orderly marketing would be frustrated by the administrative requirements to first serve notice and seek compliance prior to initiating enforcement actions. The administrative process would not enhance the ability of the boards and commission to gain compliance in a timely manner as would the provision of a commitment of financial support to minimize the extraordinary costs of IP C&D.

Sound Marketing Policy

The proposed approach is in keeping with sound marketing policy as reported in the Review Phase 3 to 5 reports and is necessary to have available the financial resources to cover future NAI discoveries and enable a timely return to a system of orderly marketing. The potential for a

single IP to not take timely action to initiate and complete the C&D requirements will preclude the ability of poultry operations within 3 km of the IP to commence restocking of their farms in accordance with CFIA policy and farm production schedules. As demonstrated in the 2014 HPNAI outbreak, nearly one-third of commercial poultry farms in the Fraser Valley fell within 1 km of an IP. The use of a fund and insurance will enable the premises designated as an Infected Place within the Infected Zone to commence restocking plans in a timely manner and enable the return to a system of orderly marketing.

Risks and Challenges

The boards and commission recognize the need for a unified regulated poultry industry response to NAI discoveries from containment, through to response and recovery. Currently, the absence of a comprehensive response to the extraordinary cost of IP C&D presents the single largest risk affecting a timely return to a system of orderly marketing following a NAI discovery. Irrespective of which sector the IP is attributed to, all sectors are affected owing to the close proximity of poultry farms in British Columbia. The failure to complete the C&D of an IP precludes the ability of poultry farms within the 3 km Infected Zone from restocking and resuming production.

The proposed approach is intended to provide the financial response to address the extraordinary cost of C&D facing the IP owner.

The Review identified that the BCCMB and BCTMB may be at risk to legal challenge of a decision to proceed with the Fund. The legal risk is owing to the lack of explicit authority included in their respective marketing schemes with respect to the use levy proceeds to cover costs and losses incurred in the marketing of a regulated product. Legal opinions have been provided in the past to the BCCMB and the BCTMB on this matter and take different perspectives on the authority of the respective boards ability to use levy proceeds for disease insurance; one suggesting the authority exists (BCCMB), while the other references the specific exclusion of the authority contained in the *NPMA* from the marketing scheme as having significance. The legal opinions are included in Appendix C.

The boards and commission have chosen not to seek further legal opinion at this time. The BCCMB takes the position that their existing legal opinion confirms that the necessary authority is in place to proceed with the fund. The BCTMB takes the position that despite the existing legal opinion, the BCTMB has established and maintained a dedicated contingency for disease losses for a number of years and has not been challenged to date. Overall, the boards and commission have assessed the risk of challenge to be low given that establishing and operating the fund can be achieved within their existing levy and contingencies.

The advancement of the CEIRA NAI insurance plan may pose a challenge to the establishment of a unified BC poultry industry response to NAI. While the use of CEIRA's NAI insurance provides BC egg producers with C&D coverage, it may only cover a portion of the expected total cost of infected premise C&D and lead to delays in the commencement and completion of C&D activity on layer farms in BC. Further, not all BC egg producers are subscribers to CEIRA's insurance plan. Currently, there are 6 registered BC egg producers that are not CEIRA subscribers and if designated as an infected premise in a future NAI discovery, they would not be

eligible for any compensation for the extraordinary cost of C&D through CEIRA or from the BCEMB. This could compromise the timely return to a system of orderly marketing.

The BCEMB's dependence on CEIRA's NAI insurance coverage along with private sector insurance options is supportive of and contributes to a unified BC regulated poultry industry response; however it is not as comprehensive as the approach being taken by the other three boards. The BCEMB has addressed the risk as outlined in the plan in Attachment 2.

Industry/Stakeholder Engagement

To ensure a transparent process, the Review included the poultry boards and commission setting up a common website for posting information and documents regarding the Review; www.avianinsurancereview.com. The Insurance Review Committee and the Fund Management Committee Agendas, Minutes, Updates, Decision Notes and Briefing Notes have been posted.

The reports for each of the five phases of the Review have been posted along with other reports completed in support of the Review. The website also provides the ability for visitors to the site to post comments directly. Three comments were posted, only one was in English which was attached to the Phase 2 Report indicating support for "Requiring each farmer to have C&D insurance".

There have been three direct enquiries submitted by producers regarding the Review. One was in opposition to mandatory insurance that included market loss and business interruption and suggested that the insurance be limited to C&D. Two were from Vancouver Island indicating opposition to mandatory insurance, indicating that they felt it was a lower mainland problem as they have not had any NAI discoveries on Vancouver Island (see Appendix D for stakeholder submissions).

Following the completion of the Phase 2 Report, letters were sent by the boards and commission to notify the producer associations, processor and hatchery organizations; feed industry and other stakeholders of the intent to pursue a collective Infected Premises Cleaning and Disinfection Cost Recovery Fund. The BC Chicken Growers Association was the only group to provide a written response; "not able to offer a fulsome opinion until we know what each group's risk share will be". The Fund Agreement provides the specific details, including sector shares.

Meetings were held with the BC Broiler Hatching Egg Producers Association, BC Chicken Growers Association, BC Egg Producers Association and the BC Poultry Association throughout November 2017 to provide an update and information on the proposed Fund. The BC Turkey Association met in January 2018. The BCBHEC most recently met with the BC Broiler Hatching Egg Producers Association on May 22, 2018. Other than the BC Chicken Growers Association's submission, no other written association submissions were filed.

Recommendation

The lack of an industry plan and the absence of available funding to address the extraordinary cost of IP C&D can result in the undue delay by an IP owner to initiate and complete C&D that is necessary to enable poultry farms within 3 km to restock their operations and resume production. The BCBHEC, BCCMB, BCEMB and BCTMB collectively request BC FIRB prior

supervisory approval to proceed with the proposed virtual fund for registered hatching egg, chicken and turkey producers plus insurance for egg producers approach. The request results from the August 14, 2014 BC FIRB Supervisory Review Order. The request accords with sound marketing policy by covering a gap the tools available to the boards and commission to be able to address the timely cleaning and disinfection of infected premises resulting from a NAI discovery.

The BCBHEC, BCCMB and BCTMB have agreed to use contingencies if required to cover extraordinary costs of IP C&D following an NAI discovery for the 2018/19 flu season to facilitate the timely return to a system of orderly marketing. The CEIRA coverage for layers took effect in September 2018.

SAFETI Principles

Strategic Considerations – The recommendation is in keeping with sound marketing policy. The approach serves to enhance the existing authorities and tools available to the boards and commission to affect the timely return to a system of orderly marketing following a NAI discovery.

The continued evolution of the BC Poultry Risk Mitigation Strategy may require other actions to be taken by the industry that would broaden coverage and benefit from the use of other risk transfer mechanisms such as a BC captive insurance company in the future. Adopting an enhanced surveillance system can change the frequency of NAI discoveries and potentially change the risk profile requiring a reassessment of options. As well, the industry has been working with CFIA to shift responsibility for disease containment and eradication on the Index Premise. A shift to industry responsibility may result in the need for industry to underwrite the market value cost of the Index Premise flock under a Rapid Response Plan. This would introduce further changes to the nature of the “insurance”.

Accountability Considerations – While the boards and commission will not use the existing authorities under the *NPMA* to require producers to maintain disease insurance, they still assume the responsibility and accountability to ensure funding is available to cover the extraordinary cost of IP C&D or that insurance coverage is adequate in order to facilitate the timely return to a system of orderly marketing. This accountability is highlighted by the federal and provincial government’s stated position that these costs no longer qualify for funding assistance under the AgriRecovery Program.

Given the voluntary nature of subscription to CEIRA by registered egg producers and the need for the BCEMB to ensure adequate funding through insurance is in place to cover the extraordinary cost of IP C&D may necessitate the BCEMB to pursue mandatory insurance requirements as set out in the *NPMA*.

Fairness Considerations – The benefits of the fund vary between sectors, but clearly all producers and processors realize the benefits of a timely return to a system of orderly marketing. In 2014 nearly one-third of commercial poultry farms in the Fraser Valley were included in an Infected Zone. The use of levy proceeds provides the most reasonable and effective approach to establishing and maintaining the Fund on a basis that is shared by all sectors in an equitable

manner according to risk as established by actuarial assessments and provide benefits that span the industry. For the egg industry, the work undertaken by CEIRA to expand insurance coverage to include NAI is available to all registered egg producers and provides a level of coverage commensurate with the risk.

The risk of challenge of the authorities of the BCCMB and BCTMB to use levy proceeds to support the fund are outweighed by the benefits of reduced production down time, reduced delays in restocking and the reduced overall costs and losses to the poultry industry as a whole.

Effectiveness Considerations – The use of a fund is the most effective approach to covering the costs of infected hatching egg, chicken and turkey premises C&D to enable the timely return to a system of orderly marketing. Having the boards and commission internalize the cost of the Fund as opposed to requiring producers to maintain insurance is also a more effective mechanism to enable the boards’ and commission’s ability to affect sound marketing policy.

The failure to adopt such an approach creates a significant risk to orderly marketing in BC. The proposed approach will also serve to reduce the time that BC poultry processors are subject to export restrictions and resume trade. The estimated weekly cost to processors for lost market opportunities is \$500,000.

The BCEMB’s approach to use existing insurance providers such as CEIRA enables egg producers to obtain more than C&D coverage at a cost comparable to or less than participating in a collective fund while contributing to a timely return to a system of orderly marketing.

Transparency Considerations – The proposed approach has specific and clearly defined outcomes, governance protocols and operating procedures defined in a Fund Agreement and other documents to which the boards and commission would be accountable to and required to respect. All financial transactions from the boards and commission to the fund will be documented and available for scrutiny.

Inclusiveness Considerations – The boards and commission have taken into consideration the impact on overall industry competitiveness in its assessment of the options and recommendations. The recommendation is consistent with not adversely affecting the competitiveness of the poultry industry in BC.

Attachment 1 – Fund Agreement

(Refer to separate pdf file)

Attachment 2 – BCEMB Risk Mitigation Plan
(Refer to separate pdf file)

Attachment 3 – Memorandum of Understanding
(Refer to separate pdf file)