

Administrative Monetary Penalties – First Survey Results

The first survey seeking feedback from industry stakeholders on BCEMB's proposed AMP Program commenced on January 10, 2022 and closed on February 3. The on-line survey was distributed to 381 industry stakeholders¹ including BC's 149 registered producers, allied trades, graders and small lot permit holders. Fifty-five respondents completed the on-line survey, representing a total survey response rate of 14%. However, 43 respondents were registered producers and thus represented a survey response rate of 29% for all 149 registered producers. Analysis of the responses from all 55 survey respondents indicate that 27 respondents (50.9%) supported the proposed AMP program, while 26 (49.1%) did not. A more detailed summary of the comments plus the full survey results have been included in the package for a more thorough review.

According to the comments, most producers feel that there are enough tools in place to ensure that registered producers in BC are following the Consolidated Order.

While having a mechanism to encourage compliance for unregistered producers may be beneficial, the cost (both financially and optically) may not be worthwhile.

There is significant concern amongst survey respondents that AMPs have a limited appeal process, and producers that are fined are assumed guilty and would have to prove innocence in order to get their money back. This is a very costly process both for the Board and the producer. This concern could be mitigated by the development of a producer committee to hear the complaint prior to filing a BCFIRB appeal. However, if an unregulated producer is fined under the AMP Program, this could be an optically poor solution.

On February 2, the EPA provided further feedback on the draft program:

The BCEPA also did a more comprehensive review of the proposed AMP policy. After consulting with producers and reviewing the current enforcement mechanisms available to the BCEMB we no longer support this proposal and recommend that a comprehensive review is done of the current compliance tools available to the BC egg industry.

The BCEPA discussed the EQA program, Barn Fitness audit, good standing vs bad standing, and quota license suspension/bird removal. It is our opinion that through the effective use of these tools the BCEMB is currently able to ensure the BC egg farms meet and/or exceed all standards.

We also do not accept that this is the best tool for managing the unregulated portion of our industry. The new entrant program is a great tool for reaching out to the unregulated market and we have yet to see its full impact. Ungraded product at retail should be managed by CFIA and the regional health authorities.

In our opinion, our resources would be better spent educating these bodies and encouraging them to enforce the regulations, rather than attempting to become the enforcer.

Attached are the full survey results.

¹ Many businesses/farms had more than one email recipient for the on-line survey (e.g. owners, managers etc)

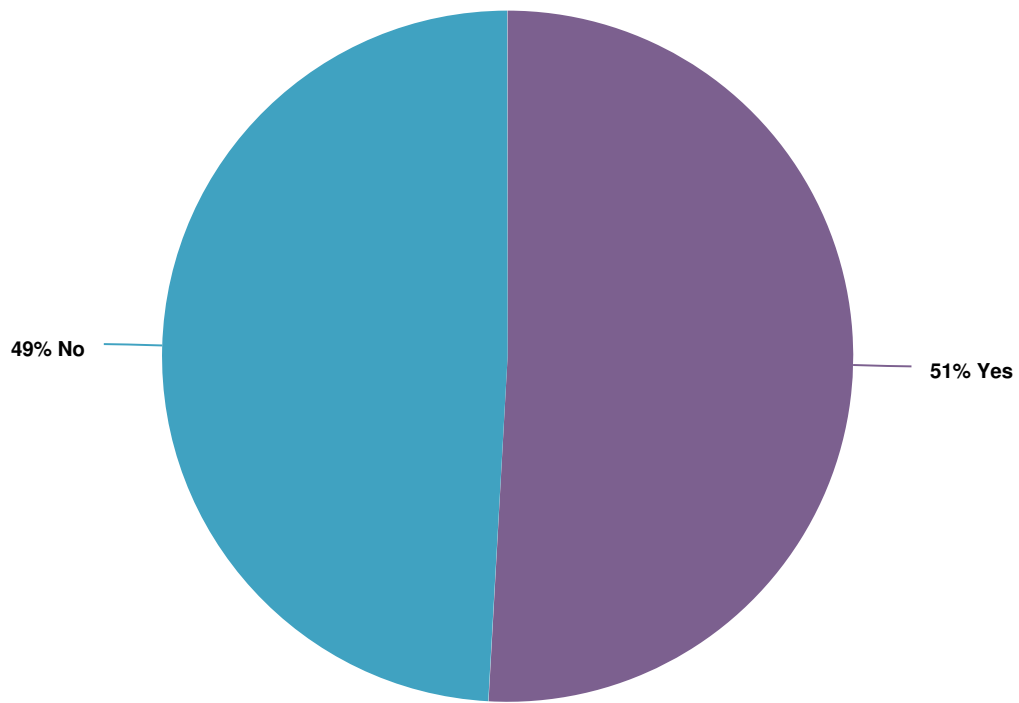
Report for AMP Survey



Response Counts



Totals: 55

1. After reading the draft program, please indicated whether you support the program as presented.



Value		Percent	Responses
Yes		50.9%	27
No		49.1%	26

Totals: 53

2. If you answered No, please provide details on the program elements that you do not support and suggest alternatives.

ResponseID	Response
3	To much there is only 140 producers
13	Not sure
16	Bc Egg should not be an enforcement agency. There are already provincial statute enforcement agencies available. I am strongly opposed to this including the extra administrative costs of operating such a program.
17	AMP is in too many of the boxes of the matrix. It should be a tool used for animal welfare concerns only, not as a catch all.
19	1. Not clear on how many AMP penalties can be applied at once or in sequence depending on the varied producer deficiencies. 2. Appeals process is limited to one mention of BCFIRB. What is BCEMB gets it wrong? 3. Money goes to government even IF there is an appeal, there is no way to get it back... How is this fair? 4. More guidelines for time to resolve issues in a manner that is both fair to the industry as well as the farmer would help.
21	Quota holders have plenty of rules regulating them already. The non quota , backyard and roadside egg stands need to be regulated way more. Use monetary fines to make them comply.
25	board has enough tools already
26	I think the Board of directors essentially peers of the producers applying these sanctions is troublesome. I believe it should be the chair who administers any penalties
28	I'm not sure the AMP is necessary. The audit process is working, perhaps need some tweaking.
30	Section Four: Level of Impact. An example of a differential financial impact is provided for a back yard producer with no indication for other production levels. SUGGESTION: A "level of impact" matrix is required and should be applied equally based upon flock size or quota held.
31	I think no alternative measures needed for registered producers. Being suffocated already
34	Where the funds go
36	I don't think this program is necessary. We already have standards that we have to meet.
37	Do not ago where the funds go

ResponseID Response

- 39 There needs to be a producer oversight committee that reviews the situation so the Board doesn't abuse the power that this program will give them't
- 40 There is no fair way for a producer to appeal an AMP. Revenue from the fines goes to General Revenue... Government is budgeting and putting pressure on sectors to levy amps as another revenue source. I would suggest utilizing mechanisms from inside our industry. Utilize "in good standing principles" QC's and growth restrictions... Audit scoring on audits. There are many tools that have proven successful already that the board is using.
- 43 Currently, I am of the opinion that Board has adequate tools to deal with registered producers in an effective manner in the event of non-compliance. The primary area of concern should be on the unregistered, small lot and unregulated producers and suppliers of egg products. This type of program may be a good avenue to implement in the future, but at the present, we need to get a better buy in from the "fringe" or those who are not registered. The argument may be made that this program will give us that opportunity, however, I strongly think we should explore other options. I think that this program may create unintended consequences for our industry and producers as it may open a door for unnecessary oversight by other governing bodies.
- 44 Concerns about appeal process
- 46 I don't understand how the BCEMB need this when they already have so many tool to enforce a non compliance's. If the grading station doesn't pickup our eggs because of a non compliance would be enough of an incentive. As for the unregistered producer, I think it's a waste of time and money to try to go after them. All it's going to do is make more people hate the supply management system.
- 47 It seems redundant for registered producers. There are already current tools including corrective actions, warnings, orders and administration sanctions. There are already many audits. It sounds like the AMP is a go between the warning and the order but I'm not sure when that would be necessary. However, if I were to decide whether to have my license pulled or pay a fine (AMP), I would prefer to pay a fine.
- 49 no monetary penalties
- 50 see below
- 51 in principle I am against a monetary penalty system. The \$ goes to gov't, who says they will not see it as a way to generate more funds in their coffers. - The BCEMB has the ability to impose penalties that hit farmers through declining QC use, declining Q creases when they come as well as declining CPP's and pullet placemnts. Those penalties hurt most producers and keep the penalties within the system.

ResponseID Response

52 I believe the industry could use tools already in place to address noncompliances.

54 Is this necessary now?

55 Is this necessary now? Isn't "producer in good standing" EQA certification enough?

3. Do you have any general comments on the draft document?

ResponseID	Response
2	Nobody wants monetary penalties
3	Good luck with the unregulated
4	Looks like an excellent program
6	Everything seems ok
7	The document does not allow for an appeal process
8	No
10	No
11	no
13	No
14	No I think it is well laid out
16	No
17	It appears the board intends to rely on AMP for a significant level of enforcement. It should be used as it is a valuable tool, but the application is currently too broad.
18	i think it is a good starting point to bring industry into compliance
19	Understand value of AMP, I do not want other producers ruining things for everyone. But also want to be sure that this can be done fairly for the producer also.
24	no
25	completely unnecessary
26	I think this is necessary and a long time coming but I think it is challengeable
27	no comments
30	The "Likelihood of Compliance and Level of Impact" categories require expanded definitions which removes possible subjective interpretation
31	Please toss out

ResponseID Response

33 We really do not need this as we can put in more penalties with out needing this as a program

34 The back yard flocks should be the first to be inspected for non compliance

36 Money grab for the government .

39 I agree with the process leading up to the penalty, but how it is concluded needs a bit of work.

40 There is no fair appeal process. Amps is draconian and is against the Canadian Charter of Rights and Freedoms in that we have the right to be declared innocent until proven guilty.

43 See above

49 i liked the segregation of risk

50 see below

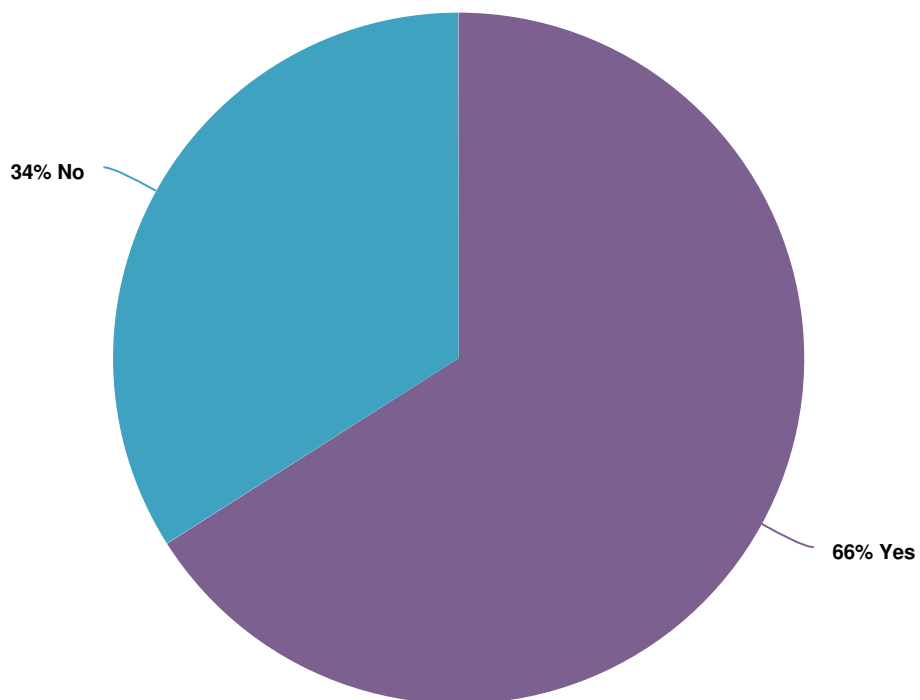
51 what kind of resources are we going to be using to monitor unregistered producers to ensure they are compliant with animal rights and biosecurity

52 no

53 no

55 Optics need to be considered for fining non quota holders. We need public perception and trust on our side.

4. After reviewing the Non-Compliance Decision Matrix, please indicated whether you support the table as presented.



Value	Percent	Responses
Yes	66.0%	33
No	34.0%	17

Totals: 50

5. If you answered No, please provide details on the elements that you do not support and suggest alternatives.

ResponseID	Response
3	Charge unregulated more as they did not pay levies
4	just kidding. I support the table as presented
13	Not sure what about
16	As stated, BC Egg should not be an enforcement agency
17	AMP should be removed from all minor and moderate infractions. It should be attached to high priority animal welfare only.
19	A new producer would be considered "uncertain" and was not aware of the small producer program. And right away an AMP could be applied.
21	Let the existing rules be used.
25	too expansive
31	See above
33	I think we can re do this matrix to be for the regulated producer
36	We don't need fines from government. The BC egg board should do it's own policing
37	This should be for non registered producers. This should be for the back yard flocks
40	Under Amps, an inspector can initiate or recommend an AMP charge due to reasonable grounds... They do not need facts. They can use speculation, they can use their opinions. This is dangerous as the penalty can be severe as well as the fact that the appeal process is extremely unfair. Due to the fact that once you receive an AMP you are "Guilty" until you prove yourself innocent, the inspector or investigator funneling up the information to those approving the AMP charge is essentially the judge, jury and executioner.
43	In principal, I am not in favour of the program.
52	.

6. Do you have any general comments on the Non-Compliance Decision Matrix?

ResponseID	Response
2	Why do people not comply
4	no
5	show me the money
7	30 days to deal with a matter may be inappropriate due to the circumstance. Some corrective action may be subject to weather and flock changeovers
8	No
11	no
14	Why doesn't it show AMPs for large producers
16	No
17	Great concept once it is revised.
18	well laid out and easy to fpllow
19	I do agree if a producer harmed animals or severely risked human health that all Certain and Severe have AMP and Adminstrative Sanction. But still the producer should have recourse to appeal.
24	no
25	too expansive
27	no comments
28	I would say yes conditionally. Are the decisions made by independent auditors with no accountability.
30	.
36	None
39	It looks good to me
40	same as above.
43	See above

ResponseID Response

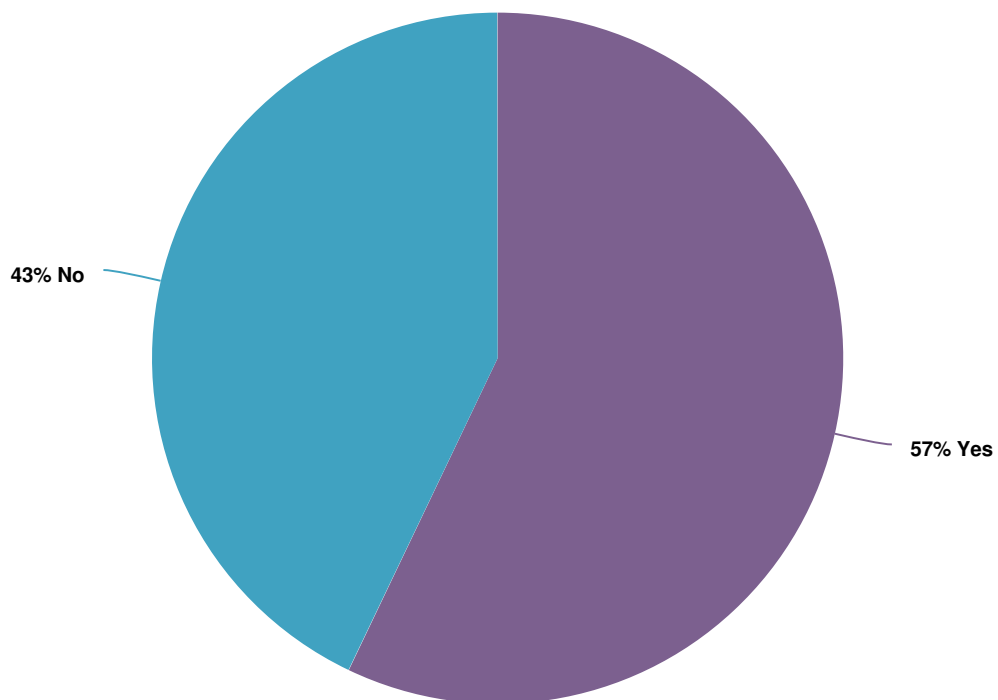
49 other than penalties it looks reasonable



51 what kind of BCEMB resources are going to be used for this? Is there a possibility of this being abused - say after a few years, there is a change in leadership in board in staff, will that make a difference? BCEMB does not keep payments in fines yet I can see our administrative fees going up with no real compensation - so it will come from producers pockets via levies. yes I know some of this is already ongoing but it will get bigger and staff / committee's will need to be paid in some way

52 no

53 no

7. After reviewing the AMP Payment Matrix, please indicated whether you support the table as presented.



Value		Percent	Responses
Yes		57.1%	28
No		42.9%	21

Totals: 49

8. If you answered No, please provide details on the elements that you do not support and suggest alternatives.

ResponseID	Response
4	again just kidding. I support the payment matrix as presented
13	Not advised
16	I do not support any of this plan
17	Penalties shouldn't be issued for minor or moderate infractions, but should be at the maximum level for severe infractions.
25	way to broad
28	Not sure if the appeal process was addressed adequately.
30	As previously stated
31	I truly believe we do not need anything more to have held over our heads
33	We should have work toward loss of Production as a penalty
36	I don't support this.
40	There is no fair appeal process. You are guilty until you prove yourself innocent. This is wrong.
43	In principal, I am not in favour of the program.
49	no monetary penalties - esp starting at 1000
52	.
54	Optics need to be considered when dealing with non quota holders. We don't need the general population against us.

9. Do you have any general comments on the AMP Payment Matrix?

ResponseID	Response
2	No
3	Do we really need this
4	no
5	do i take the red pill or the blue pill to leave the matrix
7	Should the \$ amount be increased by the number of birds affected?
8	No
11	no
13	No
14	No but it only shows for backyard flocks
16	No
17	Another good concept, but it needs to prioritize animal welfare rather than board compliance
18	no comment. staff must decide penalty values
24	no
25	board has enough enforcement tool
27	no comments
30	No
33	No
35	The fact that it's payable to the Provincial government general revenue stream makes it easier to collect fines
36	None
37	This should be for the back yard flocks that don't get Audit on a regular basis
39	It seems good

ResponseID Response

40 Again... due to the fact that there is no fair appeal process... and that you are guilty until you prove yourself innocent once the AMP is in place is wrong.

43 See above

49 its unreasonable

50 The program on paper looks good.

51 I do not support this

52 no

53 no

55 Starting Monetary fines seems to be a slippery slope.

10. Do you have any other comments?

ResponseID	Response
2	:)
4	no. all good
6	I. Think it good
8	No
11	no
13	No
14	I would like to see some comments on how often people don't follow the rules.
15	all good
16	It is my opinion the bc egg should not become involved in law enforcement. This will incur significant administrative and legal costs that I as a producer have no interest in supporting financially or in practice.
17	no
18	****
19	Having the force and effect of the Supreme Court of BC should also invite the BCEMB to provide protections to ensure producers have a solid appeal mechanism and protection against punitive penalties, while at the same time ensuring that delays are minimized to avoid tarnishing of our industry in the case of a true non-compliance.
21	The backyard and roadside egg stands need to be stopped. They are eroding our quota system. If they cannot be stopped then they have to comply with each and every rule quota holders do. SE testing , bio security audits , animal care etc.
24	no
27	no comments
30	No

ResponseID Response

33 We should not move forward with this. We need to fix our problem 1st and yes we have a problem with ungraded egg sales that end up in used cartons and at retail, that seems to be the problem after hearing Katie. We also have LOTS of problems with Farm gate sales and BC Egg not want to enforce the rules. So before we even think about playing the bully card on the permit holder or the 99 bird producers, We have to clean our act up

36 None

39 It is almost there , just need producer input right before you fine the guy.

40 Offences under AMPS are Absolute Liability, or Strict Liability offences... Essentially, if it happened. you are guilty. Due Diligence is not a defense in fighting an AMP charge. This is wrong. Once the charge is levied and if a producer has to fight this charge... the imbalance of power makes it extremely time consuming, costly, complicated, and very unfair. No farming family should be faced with this type of draconian regulation. The egg board statement "The Honest Egg" with an egg, what you see is exactly what you get. We think our industry should work the same way. Pure. Simple. And always honest. In our families personal experience with AMPS, this system is entirely the opposite. It is dishonest, unfair, against our charter of rights, is not pure, and extremely complex for innocent parties. As well, due to the fact that government is pushing AMPS... there is no way to go after legal fees, or restitution in an appeal. It is wrong that a regulated party can be charged a significant financial penalty... and under appeal the producer has no way to get compensated financially. Its very much an imbalance of power and puts farming families at greater risk financially and also from the mental health perspective.

41 no

43 I can appreciate that there has been a lot of time and thought given into this program. I am sorry if my comments sound negative, however, I think at the present time we should park this program and assess the merit of introducing it after we have a better sense, understanding and support from other governing bodies (ie, CFIA, health authority, FIRB) to enforce current regulations. If the existing regulations are not being to adhere to, I believe it would be very challenging to enforce a program which is subjective in nature. If the past appeals process is of any indication, enforcing a monetary policy may result in a very time consuming and costly endeavour.

45 It looks fair.

47 1) Good to have AMP max and min fines clearly stated.

ResponseID Response

50 Three comments: 1) I believe we need to make sure that our house is cleaned up first. Trying to put together a system to clamp down on others when we ourselves have problems does not make sense. Could we not create a matrix and use the tools we have to clean up our own house. The meeting on the second day sounded like there were things we could do to make sure farms are compliant especially if there were lease programs and such that one could not use if one was not compliant 2) the program as written does not have any dispute mechanism that I could see. I would suggest that needs to be a part of this . I believe it also needs to be separate from the Board. 3) At this time I do not believe we need this program and I would be worried that if we put this together for future Boards to use that would be a big mistake. Who is to say that in the future we have any say on who is on the Board.

51 I think most of my comments are displayed above

52 no

53 no

55 Farmers don't want to deal with FIRB. Do we want to be accountable to the Egg Board? Is there an appeal process?