



Compliance and Enforcement Operational Guidelines

for

**Chicken Farmers of Ontario
Regulations and Policies**

November 21, 2012

Compliance and Enforcement Operational Guidelines

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Introduction

Overview

Chicken Farmers of Ontario (CFO) was established in 1965 as a *local board* operating under the *Farm Products Marketing Act (FPMA)* with exclusive authority to control and regulate the production and marketing of chicken within Ontario, including the authority to prohibit such production and marketing. CFO is also a member of Chicken Farmers of Canada (CFC), which administers the national system applicable to the marketing of chicken in interprovincial and export trade.

CFO's powers under the *FPMA*, as well as Ontario Regulation 402 and various regulations and policies made under the *FPMA* include the authority to establish and administer a quota system and to make regulations requiring that persons engaged in the production or processing of chicken be licensed.

CFO's mandate extends to ensuring that its producers operate their farm businesses in a safe and environmentally responsible manner with an emphasis on producing a safe, reliable food product.

CFO represents the interests of approximately 1,100 producers and is governed by a Board of Directors elected annually from among its producer constituents.

Government oversight of CFO's activities is provided by the Ontario Farm Products Marketing Commission, in accordance with the provisions of the *FPMA* and the *Ministry of Agriculture, Food and Rural Affairs Act*.

Purpose

CFO is focused on the profitable growth, competitiveness and sustainability of Ontario's chicken industry. More specifically, the objective of CFO's Key Result Area 1 is to achieve advantageous, continuous improvement in industry profitability and sustainability. CFO's key result area 2 is to be a recognized leader in food safety and on-farm best management practices.

To achieve these objectives, CFO will work with stakeholders to ensure that legislative compliance is achieved. CFO believes that where possible, encouraging compliance through requirements is the most effective approach in achieving profitability and sustainability of Ontario's chicken industry. CFO assumes that persons subject to its regulations are responsible, law abiding citizens who share an interest in, and a commitment to, the chicken industry and society as a whole. Practices that exceed our established requirements are encouraged and supported as exemplary performance to achieve our collective goal of long term agricultural sustainability.

The Compliance and Enforcement Operational Guideline is intended to describe CFO's overall approach to informing stakeholders, assessing and monitoring compliance, and responding to instances of non-compliance through the effective delivery of CFO's regulations and policies. The guideline is aimed at education, consistency, effectiveness and transparency. The principles provide clarity and certainty to all stakeholders relating to compliance. In this document, compliance means to conform to requirements; it is the performance of regulated activities in accordance with the applicable requirements.

The following Guidelines describe CFO's anticipated approach to compliance and enforcement and in that regard, detail a number of possible enforcement responses. However, CFO's over-arching principle in this area will be to deal with matters in an effective and comprehensive manner that is in keeping with the nature of the issue as presented. In doing so, CFO may, at its discretion, vary from some or all of these Guidelines as it sees fit.

Goal and Objectives

CFO's overarching organizational goal is to effectively administer and enforce regulatory and policy requirements. CFO strives to be an effective, responsive and progressive regulator by ensuring compliance and enforcement in a fair, consistent, vigorous and timely manner. The goal of these Compliance Principles is for all stakeholders to demonstrate compliance. CFO will provide education and advice for stakeholders to achieve compliance. Risk to the public or industry will be mitigated through a timely and consistent response. The objectives are to encourage agriculture industry stewardship, provide educational information and opportunities to achieve legislative compliance, and support practices that exceed compliance.

Basic Principles

- Compliance is facilitated through a good understanding of the purpose and rationale of a specific requirement of legislation or standard. There is an obligation for CFO to inform and educate stakeholders about the requirement, means of compliance, and where possible, highly recommended and best practices.
- Adopt a risk-based approach to compliance. While, by definition, compliance is required, the speed of coming into compliance, and the appropriate immediacy of a compliance response will depend on the risk associated with the activity. Risk is the combination of the impact and probability of an event – this evaluation of risk will determine the appropriate response.
- Compliance tools will be deployed in a logical sequence of steps, with the starting point and speed of progression based on risk. Compliance tools will vary in terms of their immediacy and imperativeness. The approach will be graduated, unless the risk requires timely progression to more immediate tools.

- The approach to compliance will take into account the stakeholder’s previous record and compliance behavior.
- CFO has an obligation to assess overall compliance and will use inspection and audit activities as appropriate for the level of risk associated with the specific activity.
- Complaints are part of an overall assurance program. CFO will assess and take action on complaints based on risk.
- Administrative hearings may be necessary to address willful or repeated contraventions, or if the alleged offence has a high severity or impact.
- *Provincial Offences Act* prosecution and civil sanctions may be used as alternative measures.

Compliance Progression

CFO will seek compliance requirements through a progression of steps and each step’s activities. Resolving issues of non-compliance will be dealt with based on specific circumstances and a progression of escalating tools.

CFO will follow this approach in a fair, consistent and predictable manner and will work with stakeholders to achieve compliance. Compliance will progress through as many steps as necessary. The approach will be used consistently however, the unique circumstances will be escalated and the response will be tailored. In some cases, such as serious and imminent danger or economic impact, immediate response with a stronger compliance tool may be warranted to stop non-compliant behaviour. Emergency situations may require an immediate response. A clear and present danger will be handled immediately and appropriately for the circumstances involved.

Where possible, CFO’s approach is progressive and educational. However, prudent and immediate action will be taken if necessary.

Compliance Steps

Step 1: Establishing Standards

Regulated activities are defined by legislation, which include both Statutes (Acts) and regulations. Policy documents (including CFO policies and regulations), industry standards, and prescribed processes may also be incorporated. The legislation also prescribes the designation of inspectors and their expected activities. Periodically, the legislation is amended as appropriate

and based on stakeholder consultation. Legislation review occurs on a regular basis to reflect current needs. The communication between CFO and stakeholders provides an opportunity to assess if regulatory change is warranted. Maintaining appropriate legislation that reflects the goals of government, industry and society supports the goal of achieving compliance.

Step 2: Informing, Educating and Encouraging Planning by Stakeholders

CFO staff provide information and discuss legislative requirements during communication with stakeholders. This open communication effort is essential to ensure a full understanding of the specifics and context of the legislation. CFO relies on stakeholders to take responsible action based on clear understanding of the requirements. CFO will ensure appropriate communication activities occur following any changes to the requirements.

CFO will continually seek to raise awareness and understanding of CFO's requirements and compliance principles objectives. A comprehensive and consistent set of communication tools will be used to support this effort. CFO staff, including the Field Service Representatives and the Supply Management Representatives for each district, are our primary means of communication. Other methods include:

- Toll free telephone number available by calling 1-855-244-2575
- CFO's website provides detailed information on requirements. CFO on-line is located at www.ontariochicken.ca
- Routine release of information including CFO's annual report and newsletters
- Documents and presentations on various topics are available by contacting Field Service Representatives or appropriate program area staff
- Farmer and industry meetings to discuss important changes to policies and regulations

The educational component of the compliance principles promotes compliance by sharing information and raising awareness of agricultural protection and management, legislative requirements, and the consequences of non-compliance. The objective and rationale for requirements are explained so that stakeholders can understand why they should comply, as well as their legal responsibility. In particular, CFO staff may focus on providing additional information and education when issues of legislative compliance arise.

CFO encourages planning and operates similarly by undertaking long-term business planning. CFO encourages stakeholders to develop and implement innovative approaches to promote continuous improvement and performance that goes beyond compliance. Industry-established programs are celebrated by CFO as supporting best practices exceeding compliance.

Step 3: Inspection Activities

CFO staff, when appointed as inspectors, conduct inspections. Inspection is an activity carried out according to legislative authority. During an inspection, the inspector may:

- a) Inform, educate, respond to any questions or concerns;

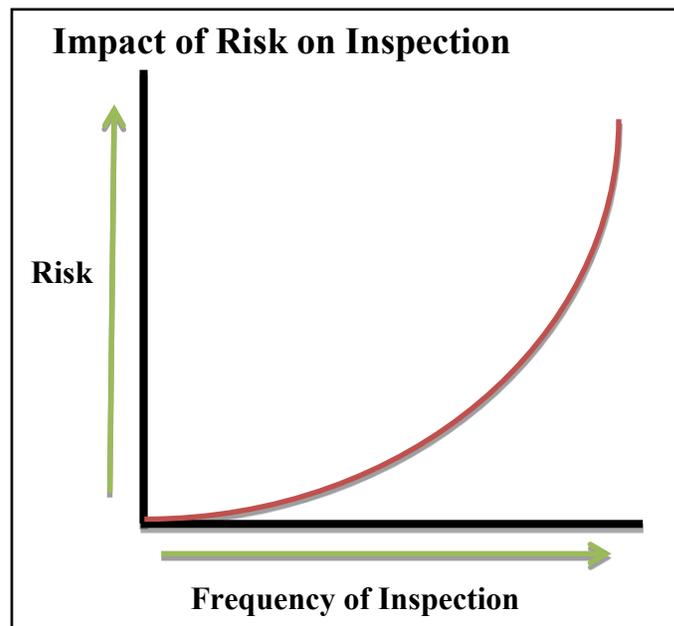
- b) Provide current information regarding requirements;
- c) Identify and address potential issues in a timely and proactive manner to prevent compliance issues;
- d) Identify and request correction of any compliance issues;
- e) Develop and strengthen relationships;
- f) Provide a measure of performance relative to requirements;
- g) Verify the submission of data being reported;
- h) Gather information to confirm compliance status; and
- i) Demonstrate CFO's commitment to compliance through a credible presence.

An inspection may be scheduled, unannounced (random), or complaint-driven.

The frequency of inspection may increase when potential risks are evident in a particular situation. Factors determining the frequency of inspection include:

- Legislative requirements (and the risk association with non-compliance of specific regulation or policy);
- History of compliance with the individual or operation;
- Potential risk to the public and/or industry, which can have an adverse effect, and
- Need to audit/monitor to ensure performance.

Operations that demonstrate a sound history of compliance and performance will require less inspection. An operation with the potential to cause adverse effect or history of non-compliance can expect to be inspected more frequently.



Inspectors will conduct themselves in an appropriate and professional manner in accordance with CFO values. Upon arrival at the operation to be inspected, inspectors will identify themselves as CFO inspectors, produce their identification card, advise the appropriate personnel of the purpose of the inspection, and explain the nature of the activities to be undertaken.

Monitoring can also occur through CFO's audit functions. An audit involves a more detailed assessment of a particular activity. An audit differs from the traditional inspection process in that an audit represents a more systematic, documented, proactive and objective evaluation undertaken by a certified auditor. CFO audits every quota holding farm annually under CFC's On Farm Food Safety Assurance and Animal Care Programs. When an auditor has been assigned, the auditor's activities and relationship to the inspection program will be discussed with stakeholder.

Step 4: Advising Stakeholders

Inspection and advisory activities promote compliance by raising awareness regarding: requirements, their purpose, how to comply, and the consequences of non-compliance. An inspection is an opportunity for staff to inform, educate, and respond to any questions or concerns. During inspections, inspectors will provide professional guidance as appropriate.

Upon conclusion of the inspection, the inspector may discuss the findings with the stakeholder, particularly any non-compliance or potential non-compliance issues. A written compliance activity report detailing the findings is prepared, signed by the inspector and the stakeholder, and a copy left with the stakeholder.

Step 5: Receiving Information and Accepting Public Complaints

Information can be obtained from various sources, including Field Service Representatives conducting inspections and members of the public expressing a complaint. Once reported to CFO, the incident is entered into CFO's tracking system, the risk is assessed, and the appropriate response action is determined. All complaints, including repeat complaints, are dealt with in accordance with CFO Compliance and Enforcement Operational Guidelines.

Step 6: Enforcing Standards

All regulatory systems must have an effective enforcement component that serves as a "backstop" for the system. CFO prefers to rectify any compliance issues through the previously described steps of education, advising, auditing and inspection for compliance. However, CFO, with the respect and support of the industry, clearly advocates adherence to the legislative requirements.

All of CFO's activities will be conducted in accordance with the Compliance and Enforcement Operational Guidelines; in a professional, firm, consistent and timely manner. The enforcement response is tailored to the specific situation to achieve compliance.

Enforcement Process

An investigation is an evidence-gathering function undertaken to substantiate or dismiss an alleged contravention. CFO investigations are conducted, completed and documented in a thorough and timely manner, which preserves the availability for all potential enforcement responses and ensures the investigation's integrity.

The enforcement process is a series of the major steps employed as an escalating response to non-compliance. All of the compliance tools, described earlier, are used as steps are used within this enforcement process. The progression of responses may be dependent on the stakeholder involved (i.e. quota holding producer, non-quota holding producer, supply processor, custom processor, etc.). This is outlined on the Reactive Activities Matrix at the end of this document. Responses may include:

- Advisory letter issued
- Warning letter issued
- Administrative sanctions
- Order and direction issued by CFO
- Undertaking and Agreement
- Hearing
- Suspension or revocation of authorizations, licenses, privileges and benefits
- Court order
- *Provincial Offences Act* prosecution
- Civil sanctions

It is important to remember that these are not a prescribed or mandated order; CFO uses a risk-based approach to determine risk level and the appropriate enforcement response. Steps may be abbreviated or eliminated where the situation warrants. For example, higher risk situations requiring immediate compliance may not begin with advisory letters.

Advisory and Warning Letters

A written advisory letter is the first step in an enforcement action after non-compliance has been identified. An advisory letter outlines the legislation requirements, identifies the area of non-compliance and advises the recipient of next steps and how to achieve compliance. If compliance is not achieved, a warning letter follows which outlines the legislation requirements and identifies the area of non-compliance. However, the warning letter also advises the recipient of the consequences of ongoing non-compliance and compels compliance. These letters are considered an appropriate response when all the following criteria are met:

- The incident of non-compliance is considered minor;

- The effect or potential adverse effect as a result of the non-compliance appear minimal;
- Adequate steps to remedy or minimize the non-compliance or its effects have not been taken;
- A history of non-compliance exists; and
- There is an expectation that the warning letter will sufficiently deter future non-compliant behavior.

Administrative Sanction

Administrative sanctions are imposed in order to deter future non-compliant behavior. These include financial penalties and/or quota suspensions, reductions or cancellations. Administrative sanctions are appropriate when warning letters have not been sufficient to successfully achieve compliance.

CFO Written Order or Direction

CFO may also by order seek to prevent and/or correct adverse effects on agricultural sustainability, human health, property, and/or public safety. The intent of an order is to compel compliance through remedial actions and, as appropriate, to require actions to prevent future contraventions.

A CFO written order or direction originates from the Board of Directors and results from a decision of the Board. It compels compliance from the non-compliant party and a subsequent inspection is conducted to assess observance with the order.

Undertaking and Agreement

CFO may seek to rectify situations of non-compliance through an undertaking, which details the specific steps or actions that must be adhered to for the prevention of further disciplinary actions and determent of future non-compliant behaviour. By signing, the non-compliant party is agreeing to a surety arrangement and accepts further enforcement response should the requirements fail to be met.

Hearing

CFO hearings are conducted under the *Farm Products Marketing Act* (Ontario) and in accordance with the *Statutory Powers Procedure Act* (Ontario).

Persons aggrieved by decisions of CFO may appeal to the Agriculture, Food and Rural Affairs Appeal Tribunal in accordance with the provisions of the *Ministry of Agriculture, Food and Rural Affairs Act*.

Suspension or Revocation of Authority, License, Privileges, and Benefits

A license may be required to conduct regulated activities. The legislation provides CFO with authority to suspend or revoke a license as deemed appropriate. This action results in the individual/company being unable to conduct previously authorized activity. This enforcement is serious as the business may be required to terminate operations. When a license has been previously issued, suspension or cancellation will be considered under the following circumstances:

- There is a serious situation of non-compliance;
- The non-compliance caused, or has the potential to cause, a significant adverse effect;
- There have been multiple repeat offences for which other enforcement responses have been ineffective;
- The suspension or cancellation serves the public and industry interest;
- There is evidence of intention to contravene the legislation; or
- The license was obtained based on false, incomplete or misleading information.

Court Order/Civil Sanctions

Court orders may be obtained:

- To compel compliance;
- To prohibit the continued commission of an offence.

Prosecution

Prosecution may be pursued when the seriousness of an offence warrants this enforcement response.

Risk Assessment

CFO has undertaken a process of risk assessment as a priority setting and resource management tool for compliance activities.

Risk assessment and risk management is a systematic approach to identifying potential hazards; understanding the likelihood and consequences of the hazards; and taking steps to reduce their risk if necessary and as appropriate.

The goal of a risk assessment is to determine whether a violation or hazard exists and to determine the nature and extent of the problem. Information obtained throughout this process provides the basis of the risk assessment.

Risk Assessment Formula:

$$\text{Risk} = \text{Likelihood (of the consequences)} \times \text{Consequences}$$

Impact (consequences of going wrong)

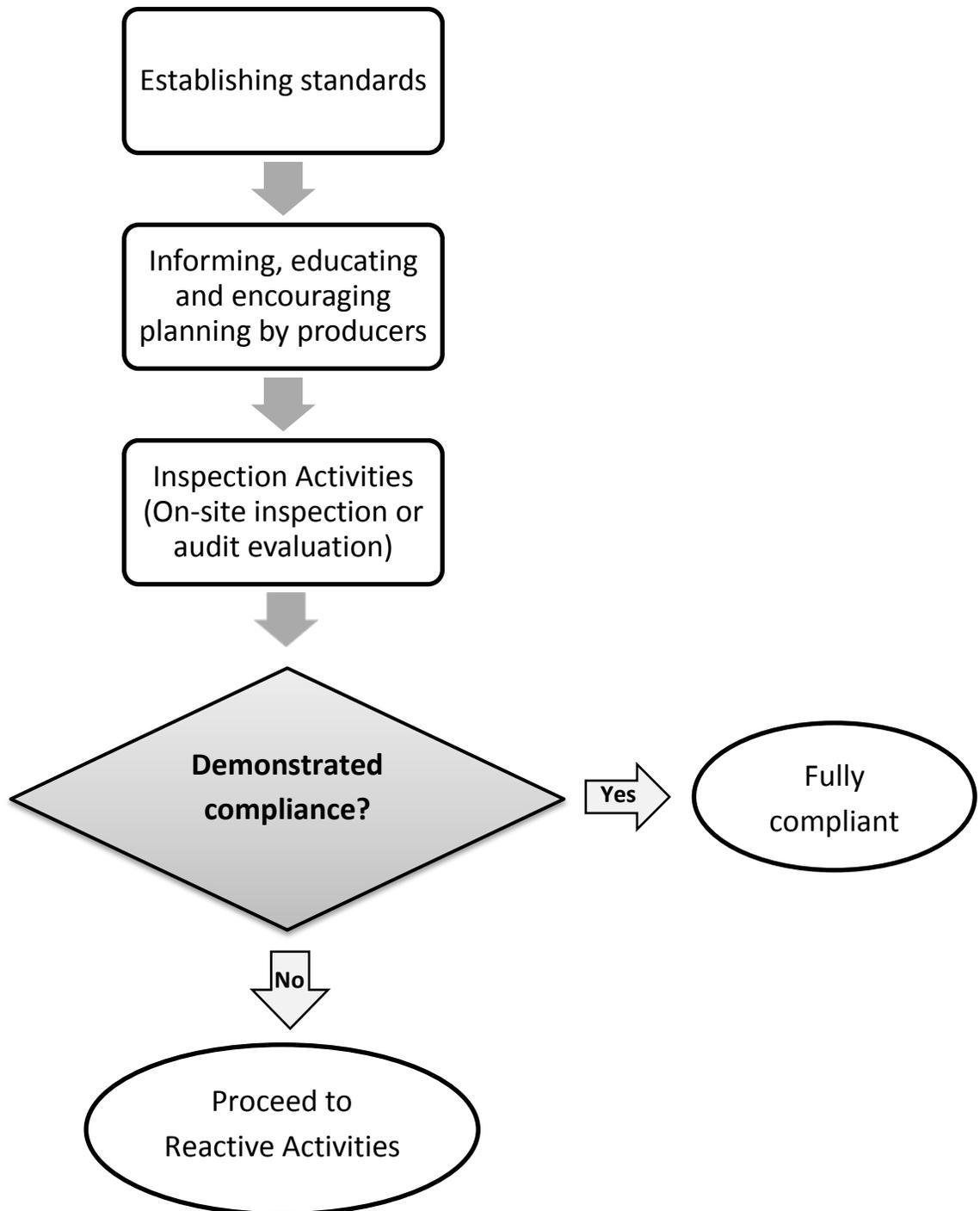
		Very low	Minor	Moderate	Severe
Probability (likelihood of going wrong)	Very unlikely	Very low	Low	Moderate	Moderate
	Unlikely but possible	Low	Moderate	Moderate	Moderate
	Likely	Moderate	Moderate	Moderate	High
	Very likely	Moderate	Moderate	High	Very high

Performance Metrics

Compliance and enforcement activities are monitored on an ongoing basis through performance metrics. These activities will be measured monthly and reported to the Board of Directors annually. Through this tracking system, CFO can determine the effectiveness of its compliance and enforcement activities and identify priority areas. The frequency and category of each of the following metrics will be reported, along with other pertinent information as detailed below. Examples of categories include animal care, farm safety, food safety, regulation violation. Metrics to be reported include:

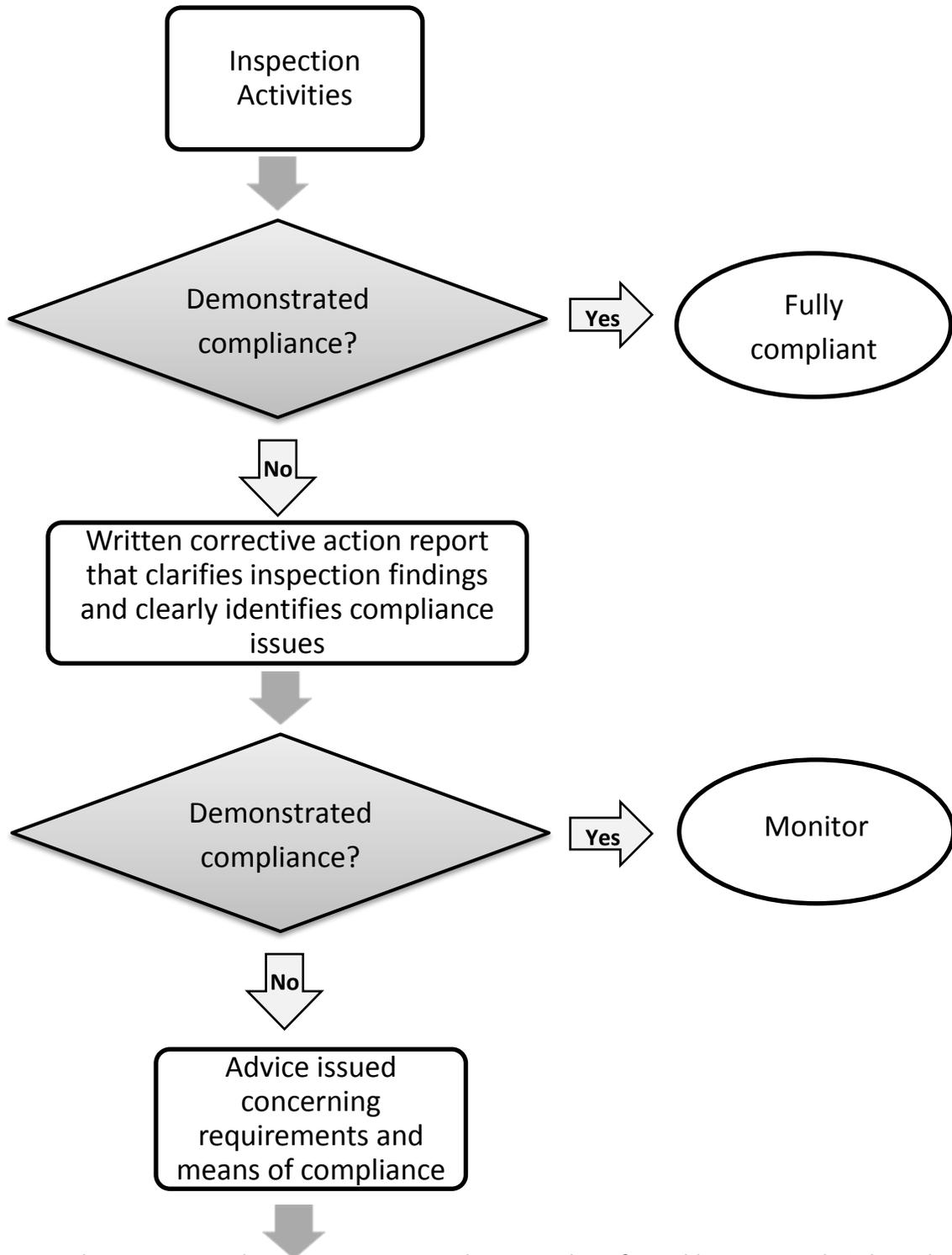
- Complaints
- Occurrences
- Number and types of audits (i.e. on-farm vs. records based audits)
- Corrective actions: CFO can report on the number of corrective actions and follow up visits made to a producer.
- Inspections: Number and types of inspections, instances of non-compliance and time to compliance wherever possible
- Advisory and Warning Letters
- Investigations
- Administrative penalties
- Orders and directions
- Undertakings and Agreements
- Court proceeding/court orders/sanctions
- Prosecution

Proactive Activities – Compliance Flow Chart



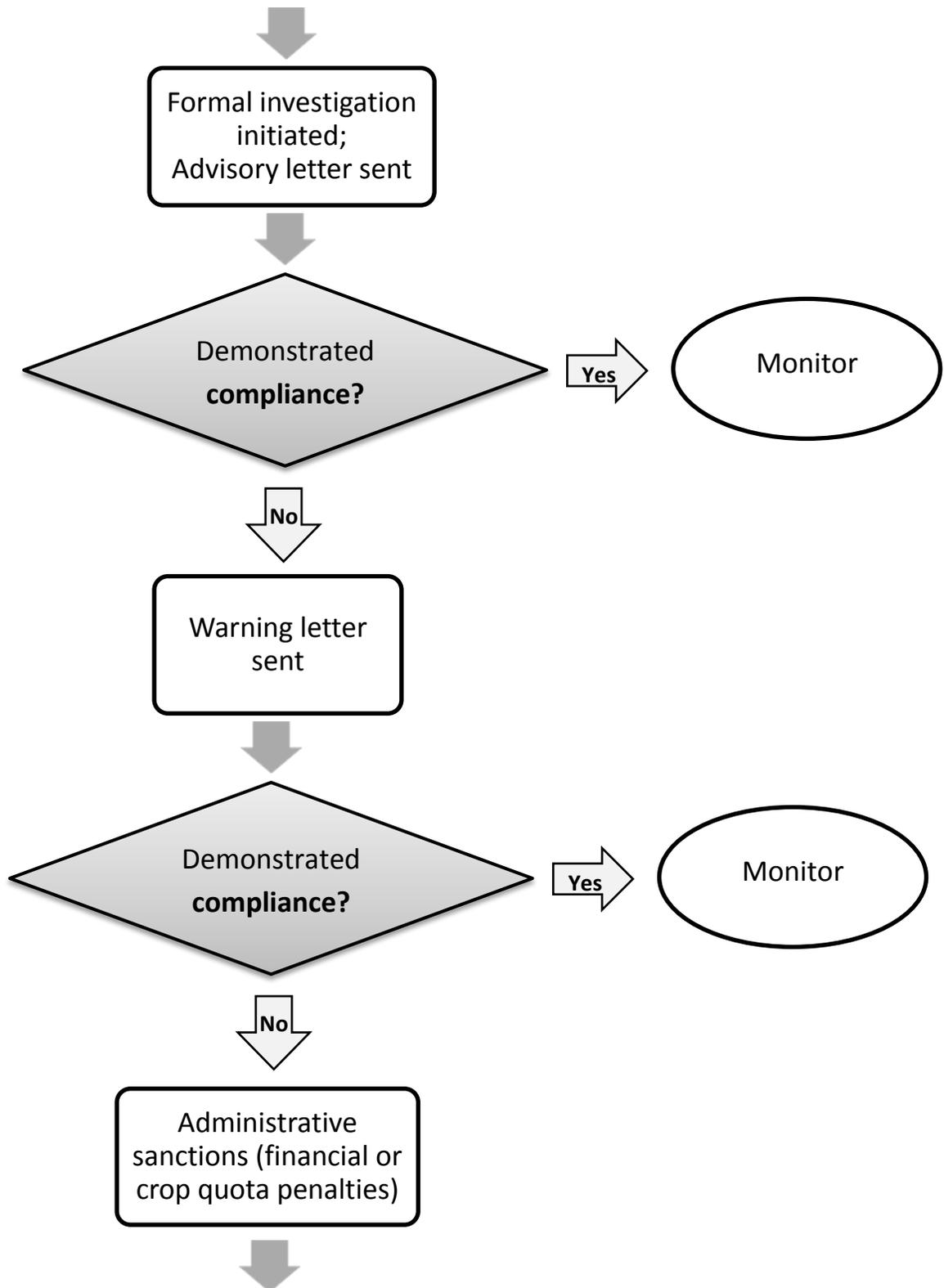
Disclaimer: The proactive and reactive activities outline a number of possible responses but the order of progression through the steps is not mandatory. Steps may be abbreviated or eliminated where the situation warrants

Reactive Activities – Compliance Flow Chart

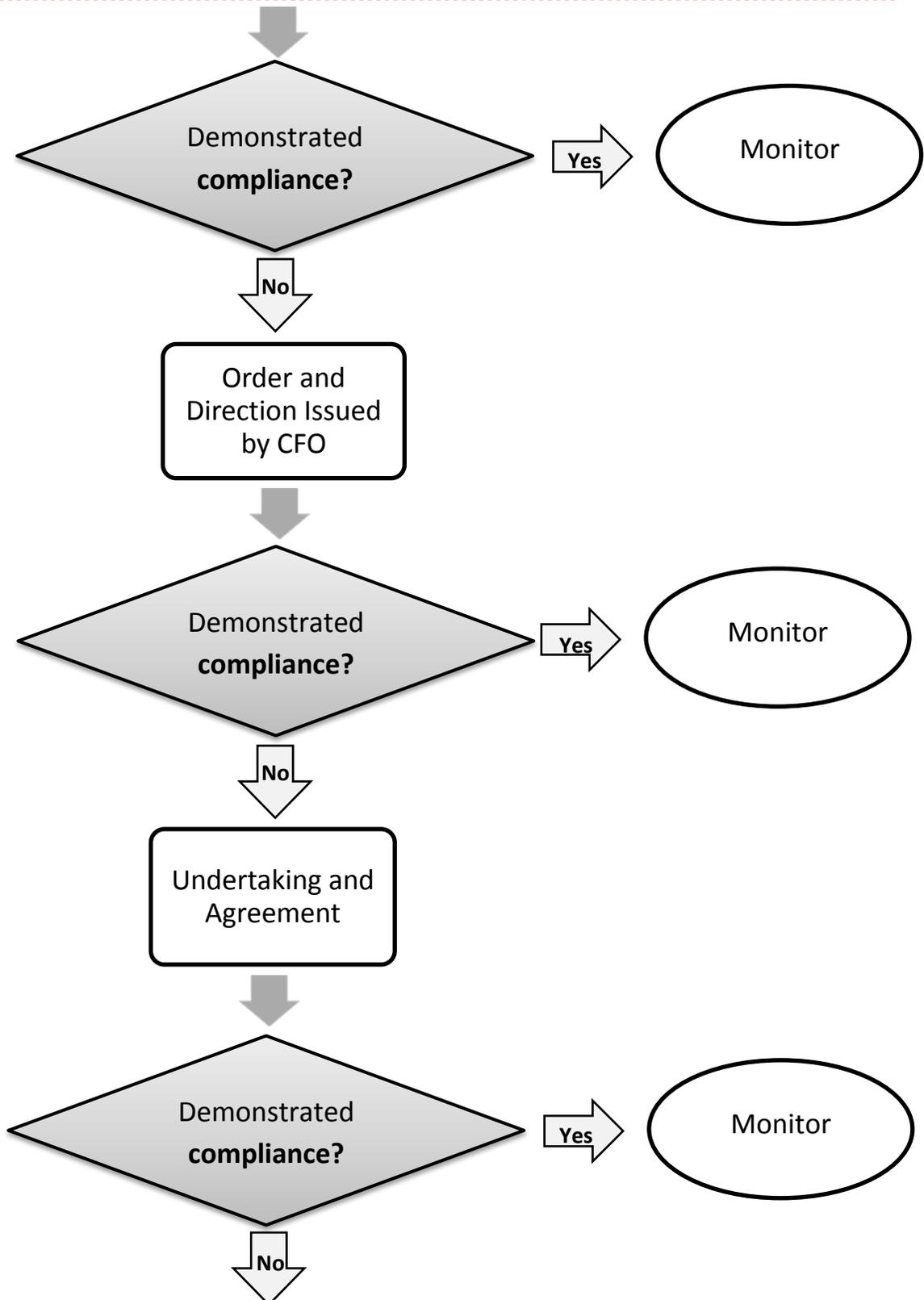


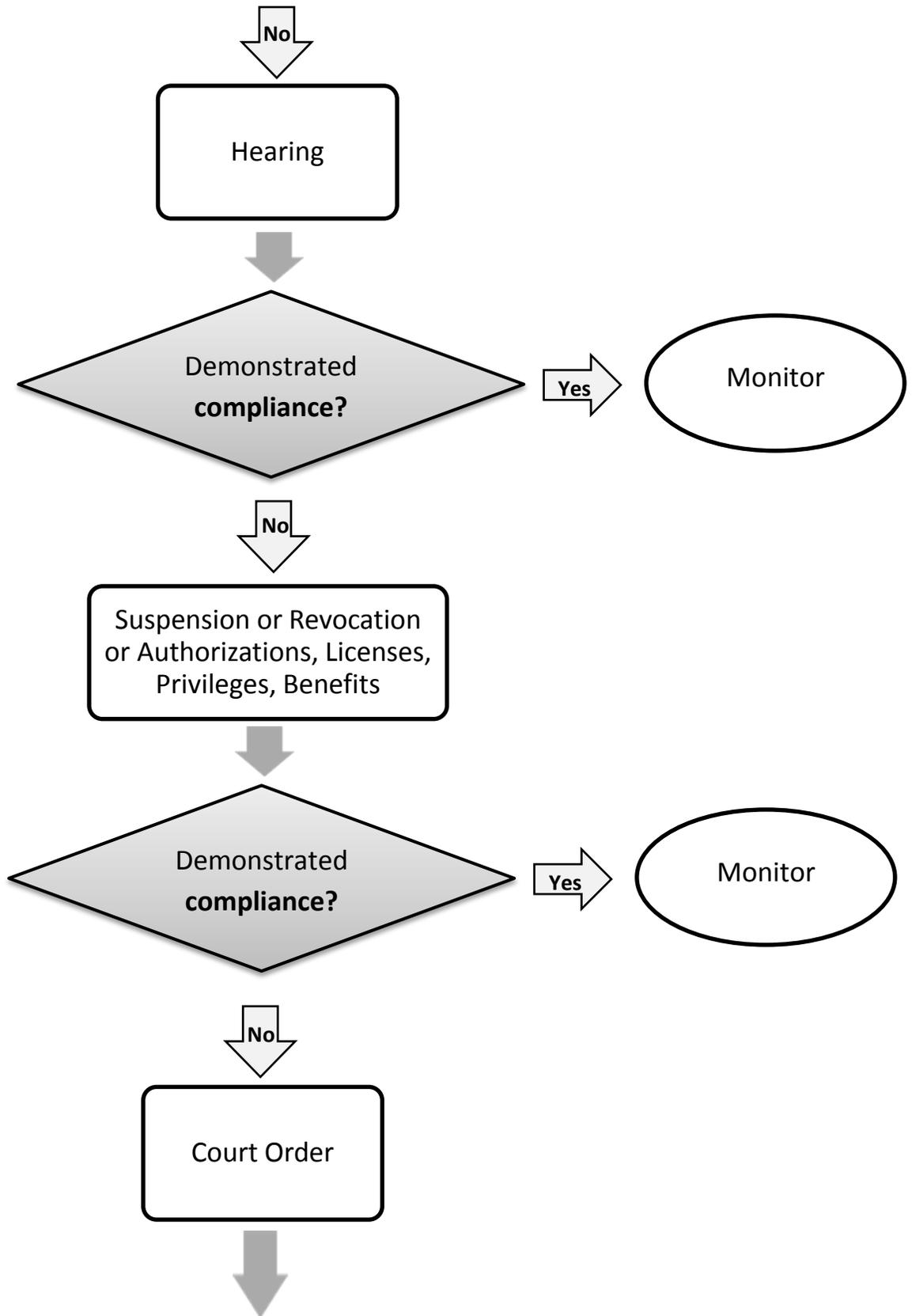
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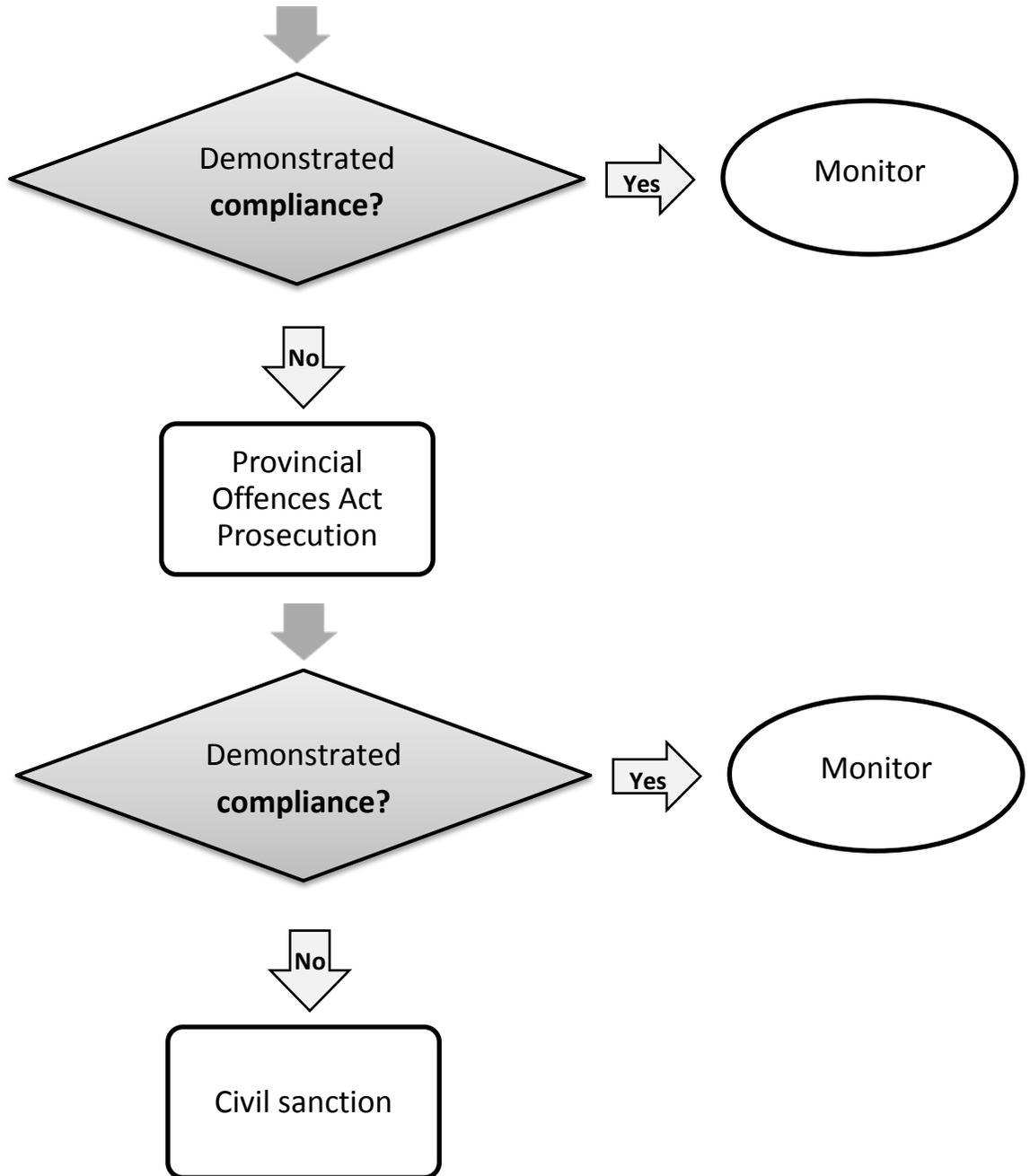
Reactive Activities – Compliance Flow Chart



Reactive Activities – Compliance Flow Chart







Compliance and Enforcement Glossary of Terms and Abbreviations

Term/Abbreviation	Definition
Board	Board of Directors with Chicken Farmers of Ontario
CFC	Chicken Farmers of Canada
CFO	Chicken Farmers of Ontario
Compliance	The state of conformity with the regulation or policy
Contravention	An action that violates a legal condition or obligation
Enforcement Action	The act of ensuring observance or obedience of policy or regulation. Enforcement Actions include: warnings; directions by inspectors; prosecution; administrative or monetary penalties; refusal to issue or renew licenses; suspension, revocation or cancellation of licenses and/or quotas
FPMA	<i>Farm Products Marketing Act</i>
Mandate	The authorization to act given to CFO by the <i>Farm Products Marketing Act</i>
Mitigate	To reduce or make less severe
Producer	A person engaged in the production of chicken to whom the Board has fixed and allotted quota, which quota has not been cancelled
Quota	A basic quota or crop quota which constitutes a license for the producing of chicken and a license for the marketing of chicken fixed and allotted by the Board
Regulatory Philosophy	A statement of the underlying principles that guide CFO's work. It recognizes that the interaction of CFO with its stakeholders represents a continuum that balances service, facilitation and enforcement activities. The Regulatory Philosophy serves as a framework within which all CFO regulatory activities are undertaken
Remedial Action	Action taken to improve a situation
Risk Assessed	CFO evaluates the risk associated with non-compliance. CFO then determines which risk management and compliance actions are required to mitigate the risk. The goal is to maintain food, human, animal and environmental safety, while using the most appropriate level of intervention that would result in returning the situation back into compliance
Stewardship	The conduction, supervision or management of an object or system

Frequently Asked Questions

The frequently asked questions listed below have originated from farmers interested in a wide variety of compliance and enforcement issues.

Should you have a question that is not addressed in this list, please contact the Manager of Regulations and Standards at 289-288-4257.

Q1. Who/what is the Chicken Farmers of Ontario?

Chicken Farmers of Ontario (CFO) is a farmer-run, non-profit organization representing Ontario chicken farmers. CFO has been in existence since 1965 and operates under a marketing system known as "supply management" or "orderly marketing." The CFO Board of Directors consists of nine elected chicken farmers who set policy for all Ontario chicken farmers. CFO is accountable to the Ontario Farm Products Marketing Commission (OFPMC), which is a supervisory body that is part of the Ontario Ministry of Agriculture, Food and Rural Affairs. The OFPMC has delegated certain authority to CFO to control and regulate the production and marketing of chicken within Ontario through a quota system.

Q2. What is the role of the Ontario Farm Products Marketing Commission?

The OFPMC is an agency of the Ontario Ministry of Agriculture and Food and is responsible for overseeing the local boards which operate under the *Farm Products Marketing Act*. For more information, see the OFPMC website at <http://www.omafra.gov.on.ca/english/farmproducts/index.html>

Q3. What do the Compliance and Enforcement Guidelines outline?

The Compliance and Enforcement Operational Guideline is intended to describe CFO's overall approach to informing stakeholders, assessing and monitoring compliance and responding to instances of non-compliance through the effective delivery of CFO's regulations and policies.

Q4. How often are the Compliance and Enforcement Guidelines updated?

CFO is committed to an annual review and updating; however, the guidelines may be updated more frequently as the need arises.

Q5. How does Chicken Farmers of Ontario respond to violations?

Resolving issues of non-compliance will be dealt with based on specific circumstances and a progression of escalating tools. A risk assessment will be performed on the violation to assess the potential consequences of this violation along with the likelihood of those consequences. This evaluation of risk will determine the immediacy of compliance. For example, a high risk violation (i.e. one which compromises food safety) requires immediate compliance.

- Q6. Do all violations receive formal enforcement such as a prosecution or hearing?**
Violations will progress through a series of compliance tools, one of which includes hearings and prosecution. However, not all violations will escalate to this stage. If a violation can be resolved with an earlier tool, further enforcement measures are not warranted.
- Q7. What does risk assessment mean?**
Risk is a product of the consequences of an action (violation), and the likelihood of those consequences. Analyzing the risk in this way helps to determine whether a violation or hazard exists and to determine the nature and extent of the problem. The level of risk determines the response to the violation.
- Q8. Who conducts inspections?**
CFO staff, appointed as official inspectors pursuant to regulations made under the Farm Products Marketing Act, R.S.O. 1990, Chapter F.9, conducts inspections.
- Q9. What is the purpose of an inspection?**
Inspections are an examination of activities or practices, and are used to determine compliance with legislation, regulations, and policies.
- Q10. What happens after an inspection?**
After an inspection, the inspector will provide the producer with a Compliance Activity Report, which details the findings of the inspection. A copy of this report is left with the producer. The inspector will discuss the results with the farmer, as well as provide education to the farmer on means of compliance and next steps.
- Q11. Can a producer appeal decisions of the CFO Board?**
As with any local board, persons who feel aggrieved by decisions of CFO can appeal to the Agriculture, Food and Rural Affairs Appeal Tribunal. More information about the Tribunal is available at <http://www.omafra.gov.on.ca/english/tribunal/index.html> or by phoning 1-888-466-2372 ext. 63433.
- Q12. Who may I contact if I have any questions or concerns?**
CFO staff is happy to assist you with any questions or concerns. Please phone CFO's toll free number at 1-855-244-2575 and you will be directed to the appropriate staff member.