

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

IN THE MATTER OF THE *NATURAL PRODUCTS MARKETING (BC) ACT* AND

THE PRIOR APPROVAL OF THE
BRITISH COLUMBIA EGG MARKETING BOARD
2017 QUOTA DISTRIBUTION POLICY

March 27, 2017

DECISION SUMMARY

1. In British Columbia, the production and marketing of eggs is regulated under the *Natural Products Marketing (BC) Act* (NPMA) and the British Columbia Egg Marketing Scheme, 1967 (Egg Scheme).
2. The issue before the BC Farm Industry Review Board (BCFIRB) is prior approval of the BC Egg Marketing Board quota distribution policy submitted to BCFIRB on February 20, 2017.
3. BCFIRB approves the Egg Board recommendation to distribute the 99,971 layers of quota as follows based on the subsequent conditions:
 - a) 9,997 to the New Producer Program
 - b) 89,974 layers pro-rata to licensed quota holders in good standing.¹
4. BCFIRB establishes the following criteria which will need to be met before BCFIRB will decide on future quota distribution recommendations. The Egg Board must, at a minimum:
 - a) Detail in its submission the quota distribution policy options considered and consulted on and the sound marketing policy rationale for its recommendation.

In order to do so the Egg Board must:

- b) Report on changing economic and market circumstances, including a summary of current and relevant information (e.g., research, options and analysis);
- c) Report on stakeholder input such as representative stakeholder engagement (the different production types, size and new entrants and small producers);
- d) Report on the results of the Egg Industry Advisory Committee (EIAC) consideration of options for distribution of allocation and its recommendations for allocation distribution;
- e) Ensure the recommendations are supported with a consideration of how to increase industry efficiencies through the growth of new entrants, small producers and opportunities to support growing markets.

¹[The number reported in Egg Board Submission to BCFIRB was 89,074](#)

INTRODUCTION

5. In British Columbia, the production and marketing of eggs is regulated under the *NPMA* and the Egg Scheme. The Egg Board, formed under the Egg Scheme, is the first instance regulator of the production and marketing of eggs in BC.
6. BCFIRB is responsible for the general supervision of all marketing boards and commissions under the *NPMA*, in the province, including the Egg Board, with exclusive jurisdiction to inquire into, hear and determine all matters and questions of fact, law and discretion arising or required to be determined by BCFIRB.
7. The Egg Scheme requires the Egg Board to obtain the prior approval of BCFIRB to vary quotas the Egg Board has issued to producers, and the terms and conditions upon which quota shall be issued or transferred.
8. On December 16, 2016 Farm Products Council of Canada (FPCC) approved Egg Farmers of Canada's (EFC) request to increase the national production (allocation) of eggs. When converted from eggs into layers, the growth in national allocation works out to an additional 847,887 layers. The national allocation increase triggered the Egg Board to request BCFIRB's prior approval on its quota distribution policy to be used to distribute BC's share (99,971 layers) of the national increase.
9. With the new increase, BC has a total of 3,009,038 layers, and is the third largest egg producing province, after Ontario (8,999,402) and Quebec (5,002,629 layers).
10. This is the sixth (6th) national allocation over the last four (4) years. BC's share of the national allocation increases since 2014 and its distribution is as follows:

67,890 layers – approved by BCFIRB July 28, 2014 [pro rata]
15,955 layers – approved by BCFIRB September 2, 2014 [pro rata]
44,475 layers – approved by BCFIRB March 16, 2015 [pro rata]
83,243 layers – approved by BCFIRB July 17, 2015 [82% pro rata; 18% NPP]
82,983 layers – approved by BCFIRB March 9, 2016 [90% pro rata; 10% NPP²]
99,971 layers – pending BCFIRB approval
393,617 additional layers 2014 to 2017

In comparison, the average flock size in several US states is three to four times more than the total of the last six BC allocation increases (e.g., the average flock size in Iowa is 1 million layers).

² BCFIRB prior approved distribution of the allocation on the basis that the Egg Board first determine the percentage of the allocation that was to be set aside for the New Producer Program. February 5, 2016 Egg Board minutes show the Egg Board earmarked 10% for the NPP.

11. The surge in allocations can be attributed to several interacting factors. Changes to dietary guidelines on fat meant eggs, a low-cost source of protein, were no longer considered unhealthy. The 2015 United States avian influenza outbreak highlighted that domestic production was falling short of Canadian demand. Finally, these two events together pointed out that the national Quota Allocation Calculation (the formula used to determine market demands) was failing to reflect true market demand as it used “backcasting” rather than “forecasting” to determine domestic demand going forward.

ISSUE

12. The issue before BCFIRB is prior approval of the BC Egg Marketing Board quota distribution policy submitted to BCFIRB on February 20, 2017.

DECISION PROCESS

13. BCFIRB reviewed the Egg Board February 20, 2017 submission to BCFIRB, requesting approval of their 2017 Quota Distribution Policy.
14. The Egg Board submission included a very general high level overview of market conditions, a summary of utilization rates and a concise SAFETI³ analysis. Following receipt of the submission, BCFIRB met with Egg Board representatives on March 8, 2017 for additional information and to ask follow-up questions. Finally, BCFIRB reviewed expectations related to quota issuance previously communicated to the Egg Board, the 2005 Specialty Review, and other relevant information.
15. In making this decision, BCFIRB considered its role in ensuring a principled approach to quota management outcomes in the interest of sound marketing policy. As such, BCFIRB used the following general supervisory process and outcomes framework to guide its decision making. BCFIRB has consistently communicated and used this framework for egg allocation prior approval decisions starting with its July 28, 2014 prior approval decision:⁴
 - a) Has the Egg Board:
 - i. Effectively and strategically engaged with its stakeholders, including non-egg industry stakeholders and the public where appropriate?
 - ii. Evaluated whether quota policies and programs are effective and strategic in meeting sound marketing policy objectives?

³[SAFETI – Strategic, Accountable, Fair, Effective, Transparent, Inclusive](#)

⁴ 2014 July 28. BCFIRB. [In the Matter of the Natural Products Marketing \(BC\) Act and the Prior Approval of the British Columbia Egg Marketing Board 2013 Quota Distribution Policy and Egg Core Review.](#)

- iii. Identified issues and gaps?
 - iv. Proposed solutions?
 - v. Reported its findings and recommendations to BCFIRB, including a full rationale?
- b) Do the Egg Board allocation distribution and recommendations:
- i. Adhere to legislative requirements?
 - ii. Reflect the intent of supply management?
 - iii. Consider provincial agricultural policy?
 - iv. Reflect a principles-based approach to regulation?

ANALYSIS

16. The Egg Board has made progress on several key quota management and governance areas since 2014. These include, but are not limited to:
- a) Putting Eggs for Processing quota into production;
 - b) Acting on its 2010 commitment to start a minimum number of new entrants a year⁵;
 - c) Restructuring its Quota Exchange to improve transparency, procedural fairness and quota access opportunities for small producers;
 - d) Re-establishing and consulting with the EIAC as required by the Egg Scheme s. 36;
 - e) Rapidly increasing quota utilization rates from 89% to 100% through various measures, including temporary allotment of quota held in reserve;
 - f) Conducting a regional demand versus supply study;

⁵ While the Egg Board committed in 2010 to start a minimum of 2 new entrants as of 2012 this commitment was not acted on until 2014.

- g) Increasing transparency through its website and regular producer communications;
- h) Increasing stakeholder engagement as part of its decision making processes.

However, the Egg Board submission and subsequent meeting with BCFIRB indicated the Egg Board's process and rationale was not as detailed as BCFIRB anticipated, as discussed below.

Egg Board Process

- 17. This section reviews the Egg Board process in relation to its allocation recommendation.
- 18. In its March 9, 2016 prior approval decision⁶, BCFIRB advised that:

Given the recent series of rapid allocations it may not be effective or strategic for the Egg Board to provide a comprehensive submission of market conditions, current programs and broad stakeholder input for every prior approval request.

That said, BCFIRB expects the Egg Board will clearly address the following condition set out in the August 2015 letter as part of the next quota distribution policy prior approval request:

The last comprehensive presentation of market conditions, program review and stakeholder input was provided to BCFIRB on May 6, 2014 as part of an Egg Board prior approval submission. Since that time, the Egg Board relied upon this work in two following prior approval submissions (November 3, 2014 and June 9, 2014).

Circumstances have changed significantly since early 2014, including the 2015 US avian influenza outbreak, the shortage of processing eggs, the addition of small lot permit holders, and a new entrant lottery. BCFIRB expects the next submission will take into account these changing circumstances and provide current information and stakeholder input. [emphasis added]

- 19. The Egg Board February 2017 submission, and subsequent information provided at the March 2017 meeting, did provide some current market information and did address some changing circumstances such as utilization and future housing standards. No current information on stakeholder input was provided. At the March meeting, the Egg Board referred BCFIRB to the Egg Board 2014 "Core Review" consultation reports on its website to answer their questions on what the views of small or new producers were on the 2017 recommended quota distribution policy.

⁶ 2016 March 9. BCFIRB. [Prior Approval Review of the BC Egg Marketing Board Quota Distribution Policy \(December 2015 submission\)](#).

20. BCFIRB expects issue-specific summaries of current stakeholder input that is directly relevant to the matter provided to BCFIRB for approval. It will be insufficient, moving forward, to refer BCFIRB to outdated general information.
21. The Egg Board reported it did consult with the EIAC, as required by the Egg Scheme, but no information was provided on the options discussed with the EIAC or a summary of the various EIAC views, in either the written submission or at the March 2017 meeting, beyond the statement that the EIAC supported the Egg Board recommendation.
22. In relation to the EIAC, BCFIRB observes that the current composition does not include small or new entrant growers. As such, the Egg Board will need to find alternative means to ensure that the views of true small (6,000 layers or less) and new entrant producers (entered egg industry in 2012 or after) form part of the information used for decision-making, and that these views form part of any stakeholder input summary provided to BCFIRB in the future.
23. BCFIRB does not have sufficient information on whether stakeholders are aware that there is a new allocation from which the Egg Board has made a quota distribution policy recommendation to BCFIRB. BCFIRB will require proof of such consultation in the future.
24. Despite these gaps, the additional market and industry information communicated by the Egg Board to BCFIRB at the March 2017 meeting reflected the importance of a timely distribution of the allocation when considering sound marketing policy.

Desired Outcome

25. The Egg Board recommends setting aside ten percent (10%) of the new allocation to support its New Producer Program (NPP) and distributing the remainder pro-rata to licensed quota holders in good standing.

New Producer Program

26. The Egg Board advises that setting aside 10% of the new allocation for its NPP will enable the NPP to continue at present levels, regardless of the amount of quota returned to the Egg Board through quota transfer assessments. The Egg Board states that setting aside a portion of growth for the NPP is in accord with BCFIRB's 2005 Specialty Review policy, where boards are expected to have quota available to meet new entrant and other policy objectives. This is also in accord with BCFIRB's expectation that the Egg Board is to consider opportunities to bring in additional new entrants to the industry beyond the minimum of two (2) per year.
27. At the March meeting, BCFIRB asked the Egg Board the rationale for selecting 10% as an appropriate set-aside and was advised that 10% is fair and anything greater would dilute incentives for current producers to invest in the industry.

28. When BCFIRB prior approved the Egg Board NPP rules on March 1, 2016⁷ it stated:

There has been significant growth in allocation since 2013. The Egg Board's market response decisions have focused, in large measure, on pro rata distribution to existing quota holders. Given the opportunity this significant growth presents, BCFIRB directs the Egg Board to aggressively pursue other public policy objectives over the next year. These include demonstrating that the Egg Board has identified and considered such opportunities as: bringing in additional new entrants beyond the 12 committed to in its request (including supporting early entry to production where feasible); regional and value added opportunities; and, other measures to use quota allocations to sustain the overall market demand for B.C. eggs.

29. BCFIRB directs the Egg Board to provide details on their economic rationale for the portion of growth it sets aside for the NPP in future requests, including consideration of increased industry efficiencies, support for growing markets, future market forecasting and analysis to the extent possible, and various options that were considered in reaching its final recommendation.

30. The Egg Board is also directed to assess on an on-going basis whether 3,000 layers is an adequate amount of start-up quota in the short and long-term.

Pro-rata Distribution

31. The Egg Board states that pro-rata distribution will meet the market demands for organic and caged-white eggs. In addition, it will reward producers who have spent years significantly investing in industry by granting them a share of the growth. Finally, the Egg Board states pro rata distribution will provide eggs for the processor. Overall the Egg Board stated that the market must remain balanced with production and the best way to maintain a steady shift to cage free without negatively impacting the current market balance is to allocate the new quota on a pro-rata basis.

32. In 2005 BCFIRB established a policy of pro-rata allocation for growth based on economic rationale, recognizing that different markets will experience differential growth over time. BCFIRB has previously invited the Egg Board to revisit the concept of pro-rata distribution given the current growth circumstances in conjunction with the uncertainty in future bird housing standards.⁸

33. In its submission, the Egg Board noted that graders are currently short of organic and caged white eggs, while long on free run and free range eggs. The Egg Board stated that graders are advising them that the demand for caged white and organic eggs is exceeding supply. For free run and free range eggs, production is exceeding demand. Demand for caged white and organic eggs is expected to remain robust.

⁷ 2016 March 1. BCFIRB. [Prior Approval Review of the British Columbia Egg Marketing Board New Producer Program 2016.](#)

⁸ 2016 February 2. BCFIRB. [Prior Approval Request – Follow Up Questions.](#)

34. BCFIRB questions how the Egg Board has confirmed that demand for caged white and organic eggs are exceeding supply and that demand for these products is expected to remain robust. Similarly, how does the Egg Board know that free run and range egg production is exceeding demand? These questions are examples of areas where stakeholder input, such as EIAC and small and new entrant producers, would be very helpful to illustrate analysis and options considered in future submissions to BCFIRB.
35. It is unclear in the current Egg Board submission if other options were considered and consulted on in addition to pro-rata distribution across all registered producers.
36. BCFIRB does note, based on Egg Board data, that the majority of layers provide conventional eggs and hence agrees that pro-rata allocation would help supply the graders if they are short of this product.
37. The Egg Board advises that pro rata distribution will best serve the immediate market demands in the face of uncertainty in future layer housing standards, but BCFIRB will in future require allocation distribution options, analysis and recommendations that show consideration of increased industry efficiencies through the growth of small producers new to the system and opportunities to support growing markets in over serviced markets. This information then needs to include stakeholder input such as EIAC and representative stakeholders (i.e., the different production types, size and new and small entrants).
38. BCFIRB wishes to recognize that the Egg Board's quota exchange provides small producers, including new entrants, with preferred access to quota in order to support new entrants and small producers by providing them with an increased ability to expand their operations to become more efficient and more viable. This Egg Board Exchange policy is intended to promote increased industry efficiencies through the growth of small producers new to the system.
39. In relation to processing, the Egg Board stated that pro-rata allocation "provides eggs for the processor". It is not clear to BCFIRB why pro-rata distribution preferentially provides eggs for the processor compared to other distribution options.
40. The Egg Board reported that the growth in table egg disappearance still exceeds increases in national allocation and that BC is considered a 'short province', in being able to provide its own eggs. It reported that if the new BC allocation was distributed by April 2017 that 82% of producers can have the allocation in production by August 2017. This is possible as birds were already placed that had been intended to produce for the recently terminated "Market Growth Allowance Program".

41. At the March meeting, the Egg Board shared its concern that its strong success in increasing historically low utilization rates⁹ now puts B.C. at risk of incurring significant national over production penalties. The Egg Board advised that timely distribution of the new allocation will help mitigate these penalty expense risks.
42. While recognizing there are outstanding questions with the Egg Board's rationale for pro-rata distribution, BCFIRB must also take into consideration the Egg Board's information concerning short markets, the risk of over production penalties and that there are layers ready to come into production within a few months. These factors point to the importance of a timely distribution as an important sound marketing policy consideration.

DECISION

43. Therefore BCFIRB approves the Egg Board recommendation to distribute the 99,971 layers of quota as follows based on the subsequent conditions:
 - c) 9,997 to the New Producer Program
 - d) 89,974 layers pro-rata to licensed quota holders in good standing.¹⁰
44. BCFIRB establishes the following criteria which will need to be met before BCFIRB will decide on future quota distribution recommendations. The Egg Board must, at a minimum:
 - a) Detail in its submission the quota distribution policy options considered and consulted on and the sound marketing policy rationale for its recommendation.

In order to do so the Egg Board must:

- b) Report on changing economic and market circumstances, including a summary of current and relevant information (e.g., research, options and analysis);
- c) Report on stakeholder input such as representative stakeholder engagement (the different production types, size and new entrants and small producers);
- d) Report on the results of EIAC consideration of options for distribution of allocation and its recommendations for allocation distribution;

⁹ Utilization refers to B.C.'s level of egg production in comparison to the number of eggs it is allowed to produce under the federal-provincial supply managed system. For example, B.C. was previously producing 89% of the eggs it was allowed to produce. It is now producing a little over 100%.

¹⁰ [The number reported in Egg Board Submission to BCFIRB was 89,074](#)

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Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy
March 27, 2017

- e) Ensure the recommendations are supported with a consideration of how to increase industry efficiencies through the growth of new entrants, small producers and opportunities to support growing markets.

Dated at Victoria, British Columbia, this 27th day of March 2017.



John Les
Chair



Corey Van't Haaff
Vice Chair



Daphne Stancil
Member



Al Sakalauskas
Member