



March 16, 2015

File: 44200-60 EMB QUOTA

DELIVERED BY E-MAIL

Brad Bond
Chair
BC Egg Marketing Board
250 – 32160 South Fraser Way
Abbotsford, BC V2T 1W5

Dear Mr. Bond:

PRIOR APPROVAL REVIEW OF THE BC EGG MARKETING BOARD QUOTA DISTRIBUTION POLICY

Quota management forms one of the three pillars of supply management¹ and is a core BC Egg Marketing Board responsibility.

On September 30, 2014, Farm Products Council of Canada (FPCC) approved an increase to the national egg allocation requested by Egg Farmers of Canada (EFC). EFC subsequently issued a provincial allocation to the Egg Board. The allocation increase triggered the Egg Board's November 3, 2014 request to the BC Farm Industry Review Board (BCFIRB) for prior approval of its quota distribution policy. This Egg Board policy is to be followed in distributing BC's share of the national allocation increase to producers within the province. The policy proposes pro-rata distribution of the September 2014 national quota allocation to all licensed egg producers in good standing.

This letter sets out BCFIRB's prior approval decision concerning the Egg Board quota distribution policy.

Decision Summary

BCFIRB approves the Egg Board policy to distribute BC's share of the September 2014 national production increase (44,475 layers) pro-rata to all licensed producers in good standing with the following conditions:

¹ Production control, price control, import control

1. The Egg Board consults with the Egg Industry Advisory Committee (EIAC) at the March 19, 2015 meeting of the EIAC and considers any resulting recommendations before distributing the quota.
2. The Egg Board moves forthwith to distribute the 100,000 layers of Eggs for Processing (EFP) pro-rata to all licensed producers in good standing. The Egg Board will make EFP program policies and procedures available on-line in a timely fashion. Procedures must include how the Egg Board will ensure any share of EFP quota that cannot be taken up immediately by any licensed producer will be put into production.
3. The Egg Board demonstrates to BCFIRB, in 2015, that it met the commitment it made in its May 5, 2014 prior approval submission to BCFIRB² to incorporate a stakeholder engagement section in its Governance Manual and report annually on stakeholder engagement activities and outcomes.
4. The Egg Board submits quarterly reports to BCFIRB and on its web site on the percentage of quota placed and in production for each of the following:
 - 44,475 layers approved in this decision;
 - 100,000 EFP layers;
 - 15,955 layers approved September 2, 2014;
 - 67,890 layers approved July 28, 2014; and,
 - New Producer Program (NPP) quota.

The reporting start date will be determined between the Egg Board and BCFIRB. It will also form part of an overall reporting requirement – see below – by which the Egg Board can demonstrate an accountable and market responsive management of BC egg production.

Authorities

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). Section 37(c) of the Egg Scheme sets out that the Egg Board requires the prior approval of BCFIRB to vary quotas the Egg Board has issued to producers and “...the terms and conditions upon which they [quota] shall be issued or transferred...”

Under s. 7.1 of the *NPMA*, BCFIRB is responsible for the general supervision of all marketing boards and commissions in the province, including the Egg Board. Section 7.1(2) of the *NPMA* provides for this supervisory authority to be exercised “at any time, with or without a hearing, and in the manner [BCFIRB] considers appropriate to the circumstances”. Under s. 9 of the *NPMA*, BCFIRB “has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined by [BCFIRB] under [the *NPMA*]”.

² Egg Board May 5, 2014 submission to BCFIRB requesting prior approval of its quota distribution policy arising from the previously approved increase in national production. See BCFIRB. July 28, 2014. [“The Prior Approval of the British Columbia Egg Marketing Board 2013 Quota Distribution Policy and Egg Core Review Part I.”](#)

Decision Process

On November 3, 2014, BCFIRB received the Egg Board “Quota Distribution Approval Request, October 2014” submission. The submission requested prior approval of the distribution of 44,475 layers on a pro-rata basis to all producers in good standing for all product categories. BCFIRB reviewed the submission, which included a progress report on BCFIRB’s July 28, 2014 directions. BCFIRB also met with the Egg Board on January 21, 2015 and received subsequent updates on the NPP, EIAC and EFP. In making this decision, BCFIRB took into account its role in ensuring a principled approach³ to quota management outcomes in the interest of sound marketing policy.

BCFIRB Reasons

Over the last several years, BCFIRB has worked in cooperation with BC’s regulated boards and commissions (including the Egg Board) to develop and put into practice principles-based regulation using founding principles – Strategic, Accountable, Fair, Effective, Transparent, Inclusive (SAFETI) – as a tool. BCFIRB expects the Egg Board to demonstrate the application of SAFETI principles in all its processes, including its management of BC egg production going forward to ensure that quota distribution is market responsive, alongside meeting public policy objectives.

Process

As set out in paragraph 7 of the July 28, 2014 prior approval decision,⁴ and again in BCFIRB’s October 8, 2014 letter “Quota Distribution Approval – Expectations”, BCFIRB required a detailed progress report on the outcome(s) of the July 28, 2014 directions as part of any request for an expedited prior approval process. In the October expectations letter, BCFIRB also suggested the Egg Board should consider whether there were any challenges or changes since the previous allocation that would require stakeholder consultation; whether the Egg Board had taken all possible steps to ensure the EFP allocation and the previous allocation are produced in a timely way; whether EIAC input was reflected in the submission; and whether the submission is available on line to all value chain stakeholders.

BCFIRB is generally satisfied the Egg Board met process expectations. The Egg Board’s November 2014 submission reported on the status of outstanding directions from the July 2014 BCFIRB prior approval. The Egg Board noted it determined additional consultation with stakeholders was not required. Following the submission, the Egg Board provided further updates on market data, NPP, EFP and EIAC. The submission was made available on-line.

The EIAC was not established at the time the Egg Board submission was made. Consulting with the EIAC on all production or pricing matters is a regulatory requirement (Egg Scheme). Ideally, the Egg Board would consult with the EIAC prior to making a prior approval

³ Strategic, Accountable, Fair, Effective, Transparent, Inclusive (SAFETI).

⁴ Prior approval decision arising from the December 2013 Egg Farmers of Canada allocation. British Columbia Farm Industry Review Board. July 28, 2014. [Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy and Core Review – Part I](#). “...BCFIRB is prepared to address an Egg Board proposal on an expedited basis, subject to that proposal being supported by a detailed progress report on the outcome(s) of the directions in this supervisory decision.”

submission to BCFIRB. Given the EIAC will be meeting on March 19, 2015, BCFIRB requires the Egg Board to consult with the EIAC on the proposed quota distribution policy and consider any recommendations prior to its actual distribution of the 44, 475 layers of quota. Going forward, the Egg Board is expected to consult routinely with the EIAC on pricing and production matters affecting the BC egg industry, including allocation priorities in response to market demand and public policy objectives.

Quota Distribution Policy

The quota distribution policy is an opportunity for the Egg Board to clearly demonstrate to its stakeholders and BCFIRB how its quota management is effective, strategic and accountable in terms of sound marketing policy that balances the business needs of the industry and the public interest through a fair, inclusive and transparent process.

BCFIRB is satisfied that:

- Subject to the statutory consultation requirement with the EIAC outlined above, and based on Egg Board market data, pro-rata distribution to all licensed producers in good standing is appropriate for this allocation;
- Based on Egg Board reports, the Egg Board is meeting BCFIRB's July 28, 2014 directions to start the process to bring in four new producers (minimum) through the NPP;
- Based on Egg Board reports, the Egg Board is meeting BCFIRB's July 28, 2014 directions to establish and start consulting with an EIAC; and,
- Based on Egg Board reports, the Egg Board is meeting BCFIRB's July 28, 2014 directions to establish required contracts, policies and procedures to get EFP quota into production.

BCFIRB is very pleased to see the Egg Board putting in place contracts, policies and procedures to get EFP quota into production. Given the increasing demands from industrial egg markets, establishing a workable EFP model for BC could support future development of these growing markets. EFP policies and procedures are to be made available to all stakeholders and BCFIRB on the Egg Board web site.

BCFIRB understands the Egg Board will distribute EFP pro-rata to all licensed producers in good standing as a means of sharing the financial costs (producers are paid less for EFP eggs). Egg Board policies and procedures will include an outline of how any share of EFP quota that cannot be immediately taken up by a licensed producer will be put into production in a fair, accountable and transparent manner.

One outstanding item from the July 28, 2014 decision is the Egg Board commitment to incorporate a stakeholder engagement section in its Governance Manual and report annually on stakeholder engagement activities and outcomes. The Egg Board is to meet this commitment in 2015 as part of this prior approval decision.

In its November 2014 submission, the Egg Board stated that the market requirements for both table and processor eggs are being supplemented by imports from the United States (approx. 2.8 million dozen eggs). Sound marketing policy indicates that not only are timely provincial prior approvals important (including ensuring the 'right eggs at the right place, at the right

time’), but serious consideration also needs to be given to the overall national production of domestic eggs for the table and industrial markets.

Market data is vital to help determine if the national production is meeting domestic demand – a fundamental tenet of supply management. It is essential for the Egg Board to continue collecting market data and share it with EFC. In turn, BCFIRB supports the Egg Board’s stated concern that EFC should have a more effective market allocation system to ensure that the national market demand for eggs, including regional, processing, organic, free run and others, is being met. Such a system would include sharing of national marketing information with provincial egg boards to enable more informed collective decision-making. As new BC layers start going into production,⁵ it is also important for BCFIRB to be able to inform FPCC and its fellow provincial supervisory boards on BC’s progress on new production as part of overseeing whether the national egg allocation and production is meeting market demand.

The Egg Board did considerable work in assessing BC market demand and in supporting production decisions in response. As the Egg Board itself has reported, there is more that can be done; however, this depends on improved cooperation by EFC, graders and other stakeholders. To encourage this cooperation, BCFIRB will be working with the Egg Board to establish public reporting requirements that will enable production management and allocation decisions to be assessed against established and emerging market opportunities. This is the type of information and cooperation that regulators require to determine allocation priorities that demonstrate transparent and accountable decision-making in a legislated supply-managed system.

In accordance with s. 57 of the *Administrative Tribunals Act*, “an application for judicial review of a final decision of (BCFIRB) must be commenced within 60 days of the date the decision is issued.”

Administrative decisions made by the Egg Board in the implementation or application of its quota distribution policy – as approved by BCFIRB – are appealable under s. 8 of the *NPMA* within 30 days of an Egg Board decision.

If you have any questions, please feel free to contact BCFIRB.

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per



John Les
Chair

cc: BCFIRB web site

⁵ Total 228,320 layers: 100,000 EFP layers; 67,890 layers approved July 28, 2014; 15,955 layers approved September 2, 2014; and the current 44,475 layers approved in this decision