

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
2018 QUOTA DISTRIBUTION POLICY

August 28, 2018

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 (Egg Board) quota distribution policy submitted to BCFIRB on May 25, 2018.
3. BCFIRB does not approve the Egg Board recommendation to distribute the 108,741 layers of quota as follows: 10% or 10,874 layers to the New Producer Program; and, 90% or 97,867 pro-rata to licensed quota holders active and in good standing.
4. For the reasons set out in this decision, BCFIRB directs the Egg Board to distribute the 108,741 layers of quota under its current Consolidated Orders dated November 1, 2017 as follows:
 - a) 30% or 32,622 to be set aside for the New Producer Program (minimum 10%) and other public policy objectives such as regional development; and,
 - b) 70% or 76,119 pro-rata to licensed quota holders active and in good standing.
5. BCFIRB is not prepared to prior approve future Egg Board allocation recommendations until the Egg Board incorporates consideration of its “framework of proposed new/updated programs” as per its August 3, 2018 letter.

INTRODUCTION

6. 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.
7. BCFIRB is responsible for the general supervision of all marketing boards and commissions under the *NPMA*, 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.
8. Section 37(c) of the Egg Scheme requires the Egg Board to obtain BCFIRB prior approval to vary quotas the Egg Board has issued to producers, and the terms and conditions upon which quota shall be issued or transferred.
9. On December 15, 2017 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 in to layers, the growth in national allocation works out to an additional 869,934 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 (108,741 layers) of the national increase.

10. With the new increase, BC will have a total of 3,117,779 layers, and is the third largest egg producing province, after Ontario (9,281,446) and Quebec (5,229,434 layers).
11. This is the seventh (7th) national growth allocation over the last five (5) 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% NPP¹]
99,971 layers – approved by BCFIRB March 27, 2017 [90% pro rata; 10% NPP]
108,741 layers – pending BCFIRB approval
503,288 additional layers 2014 to 2018

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

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's May 25, 2018 submission requesting approval of their Quota Distribution Policy recommendation. BCFIRB met with Egg Board representatives on June 25, 2018 to discuss related areas such as new entrants, regional development considerations and growth opportunities for smaller farms. Other topics included the Quota Assessment Tools Evaluation Supervisory Review² (Supervisory Review) decision and its relationship to the growth allocation.

¹ 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.

² 2017 February 2. BCFIRB. [In the Matter of the Natural Products Marketing \(BC\) Act and Quota Assessment Tools Supervisory Review](#).

British Columbia Farm Industry Review Board
Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy
August 28, 2018

14. BCFIRB followed up on the June 25, 2018 meeting with two letters. A July 6, 2018 letter in relation to the growth allocation and the Supervisory Review, and a second letter on July 18, 2018 requesting:

the Egg Board's timeline for development of

- Options to current policies, including those usually applied for quota allocation, to address new entrant production needs, to promote regional development and to support small farm growth.

the Egg Board's timeline for development and implementation of:

- its updated New Entrant Program that addresses any changes in production needs;
- a regional development plan or framework; and
- the selected option regarding support for small farm growth.

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. This included reviewing paragraph 4(a)-(c) of its March 27, 2018 Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy decision for any outstanding requirements:

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.

16. Overall 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.³

- 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?
 - 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

- 17. Overall the Egg Board process and submission generally met BCFIRB's expectations set out in its March 27, 2017 decision (paragraph 15) and the process and outcomes framework reflected in paragraph 16. The Egg Board did not meet BCFIRB's expectations in answering BCFIRB's July 25, 2018 questions.
- 18. The Egg Board adequately remedied the outstanding information and consultation concerns BCFIRB had with the previous allocation prior approval submission. However there were key questions related to rationale, industry gaps and provincial agricultural policy for BCFIRB as it reviewed the Egg Board's current submission.
- 19. Unlike its previous allocation submission in 2017, the Egg Board considered and consulted on a number of different options for quota distribution, including pro-rata, equal distribution, region specific, production-type specific and variable, along with potential combinations. This was strategic and demonstrated the Egg Board is open

³ 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](#).

to taking flexible approaches to growth allocations depending on current context. Unfortunately the Egg Board's rationale for its current quota allocation recommendation did not address or reflect on key considerations associated with these other options, or why the recommended approach was determined to be in the best interest of sound, orderly marketing within British Columbia.

20. The Egg Board's rationale for 10% of the allocation going to its New Producer Program was clearly supported, however there was no consideration as to whether the 3,000 base new entrant quota was sufficient given the Egg Board was starting a program review process. This was disappointing given in its March 27, 2017 prior approval decision, BCFIRB directed the Egg Board to assess on an "on-going basis whether 3,000 is an adequate amount of start-up quota in the short and long-term".
21. BCFIRB understands the Egg Board is currently undertaking this assessment as part of its New Producer Program review. However it appears the Egg Board may have already concluded that the 10% it budgeted out of this growth allocation would remain "as is" regardless of the review outcome.
22. The Egg Board's rationale for distributing the remainder of the growth allocation (90%) pro-rata was lacking in substance. Rather, it seemed to rely on a "producer vote" rationale coming out of the surveys it conducted to make its final recommendations. The final rationale was disappointing given the evident time and resources the Egg Board invested in developing distribution options, its data and policy work, and the evident strong producer engagement (based on participation levels and thoughtful comments).
23. In relation to the rationale, it was unclear as to whether or how the recommendations would act to: encourage industry distribution to mitigate disease risk, address the reported organic egg import risk, support growth opportunities for small farmers, and, meet regional market demand. In its May 25, 2018 submission, the Egg Board reported that it will use the New Producer Program to support new entrants, smaller producers and address market needs as required throughout British Columbia, however it gave little indication as to how the New Producer Program will help achieve these goals.
24. At the June 25, 2018 meeting the Egg Board emphasized it was not yet in a position to make strategic decisions related to the pending growth allocation and the volume of quota granted to new entrants, regional development and small farm growth. In turn, BCFIRB observed that the Egg Board consistently delayed regional development planning and consideration of other policy objectives despite frequent growth allocations over the last several years. The Egg Board also shared that overall it believes 90% pro-rata distribution is fair and supports producer planning. It made it clear at the meeting that it was not prepared to look at other options for allocation distribution until it has completed its New Producer Program review and holds a planned fall Roundtable with stakeholders.

British Columbia Farm Industry Review Board
Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy
August 28, 2018

25. In response to BCFIRB's July 18, 2018 further questions the Egg Board simply stated:

As BCFIRB is aware from our growth quota allocation submission and the June 25th meeting, BCEMB is undertaking a series of consultations in 2018 to obtain information from stakeholders which, coupled with BCEMB's on-going research on production/markets/future needs, will help guide the development of more robust programs, including policies for quota allocation, that will address regional development, new entrant production needs, and support for small farm growth.

Our proposed timeline is as follows:

- Consultations, research and analyses to be completed by January 2019
 - Development of framework of proposed new/updated programs to be completed by May 2019 (note: policy for quota allocations to be completed earlier – Feb/Mar)
 - Implementation of new programs or pilot projects to test effectiveness of new programs by September/October 2019
 - Assessments and refinements of programs to occur in 2020-2021
26. BCFIRB finds itself at a loss. It agrees with the Egg Board that a considered approach to new entrant programs, regional development, small farm growth and other policy objectives is effective and strategic. It also agrees the Egg Board appears to be finally moving forward with such a process.
27. On the other hand, BCFIRB pointed out to the Egg Board on March 1, 2016⁴, and again on March 27, 2017 that:

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. [emphasis added]

28. Two years and three growth allocations later BCFIRB finds itself presented with a vague course of action by the Egg Board and assurances that there will be another growth allocation this year that the Egg Board can work with. Unfortunately the argument that the Egg Board could use the next allocation to address the aforementioned opportunities conflicts with its August 3, 2018 letter which states

⁴ 2016 March 1. BCFIRB. Prior Approval Review of the British Columbia Egg Marketing Board New Producer Program 2016.

there will be delivery of a framework for proposed new/updated programs in May 2019 [but] “policy for quota allocations to be completed earlier – Feb Mar”.

29. It appears to BCFIRB that even if there is another growth allocation in 2018, the Egg Board still won't be considering how to integrate distribution of growth with its plans around new entrants, regional development, smaller farm growth and other possible policy objectives.
30. In summary, despite several growth allocations, several years and multiple notices from BCFIRB, the Egg Board is stating that it can't even begin to consider use of the growth allocation for policy objectives beyond the current New Producer Program and pro-rata to existing producers for at least another year.
31. BCFIRB is left wondering what it takes to get the Egg Board to take timely action on these long-outstanding areas. BCFIRB came to the conclusion that specific direction is required.
32. Before moving to its directions, BCFIRB wants to be clear that it still continues to expect that all quota will be produced. The Egg Board has done a good job to date of having tools in place to have reserved quota produced. It also acknowledges that the Egg Board may choose to use other quota management tools in addition to growth allocations to effectively manage new entrant, regional, growth and new market goals. For example, the Egg Board currently provides priority to new entrants and smaller farms on its quota exchange.
33. Finally, a factor that arose at the June 25 meeting was the interaction of growth allocation distribution with BCFIRB's February 2, 2017 Supervisory Review decision. The Supervisory Review decision impacts how quota is managed by boards and producers. In the interests of allowing distribution of the growth allocation to move forward, BCFIRB determined it would make its allocation prior approval decision based on the current Egg Board Orders which include BCFIRB's original 2005 quota management directives.

DECISION

34. BCFIRB does not approve the Egg Board recommendation to distribute the 108,741 layers of quota as follows: 10% or 10,874 layers to the New Producer Program; and, 90% or 97,867 pro-rata to licensed quota holders active and in good standing.
35. For the reasons set out in this decision, BCFIRB directs the Egg Board to distribute the 108,741 layers of quota under its current Consolidated Orders dated November 1, 2017 as follows:
 - a) 30% or 32,622 to be set aside for the New Producer Program (minimum 10%) and other public policy objectives such as regional development growth of new markets; and,

British Columbia Farm Industry Review Board
Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy
August 28, 2018

b) 70% or 76,119 pro-rata to licensed quota holders active and in good standing.

36. BCFIRB is not prepared to prior approve future Egg Board allocation recommendations until the Egg Board incorporates consideration of its “framework of proposed new/updated programs” as per its August 3, 2018 letter.

Dated at Victoria, British Columbia, this 28th day of August 2018.



John Les
Chair



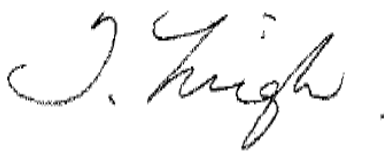
Corey Van't Haaff
Vice Chair



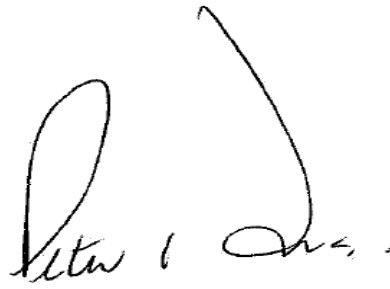
Daphne Stancil
Member



Al Sakalauskas
Member



Tamara Leigh
Member



Peter Donkers
Member