



April 27, 2018

File: 44200-60 QATE

DELIVERED BY E-MAIL

Bill Vanderspek
Executive Director
BC Chicken Marketing Board

Dear Mr. Vanderspek:

**BC CHICKEN MARKETING BOARD QUESTIONS – QUOTA ASSESSMENT TOOLS
SUPERVISORY REVIEW**

Thank you for your March 6, 2018 letter setting out the BC Chicken Marketing Board (Chicken Board) questions regarding the February 2, 2018 BC Farm Industry Review Board (BCFIRB) Quota Assessment Tools Supervisory Review decision (Quota Review).

The majority panel has asked me to respond to the Chicken Board's questions as follows.

First, the majority panel determined that the Chicken Board questions are seeking clarification of the majority decision. As such the proposal is properly addressed only by the majority of the panel.

Chicken Board question 1: Is there retroactivity to any of the provisions of the decision and specifically paragraph 162(c) which provides that "quota holders are not eligible to receive growth quota for 12 months following a transfer of quota. Does this apply to growers that have transferred quota within past 365 days of a new issuance of quota?"

The majority made a considered decision on the eligibility for future growth quota allocations. Consistent with the decision, a grower who transferred quota in the 12 month period prior to the issuance of growth is ineligible for new growth if at any point in the 12 previous months that grower transferred quota. For example, if there was an issuance of growth quota in April 2018, those growers who transferred quota within the previous 12 months would not be eligible to receive a share of that growth quota.

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Farm Industry Review Board**

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Chicken Board question 2: Paragraph 162(c)(i) provides one exception to section (c): if a quota transfer does not result in an overall change in total quota holdings within a business unit (e.g. within a corporation), quota holders within that business unit remain eligible to receive growth.

- *What is the definition of “business unit”, corporations are mentioned, do partnerships meet definition?*
- *Do quota holdings refer to number of units of quota or number of shares held by individual within business unit? Can shareholders change or does this refer to percentages of ownership within a corporation?*
- *Will there be provisions for succession planning outside the corporation or business unit? Will owners of a corporation or business unit be able to give quota to a child or sibling without losing ability to receive growth for a year?*

The majority decision’s use of “business unit” as opposed to “corporation” is intended to reflect the broader configuration of structures under which growers operate in regulated industries (of which a corporation is but one example) and which would include partnerships. The intent of this direction was to balance the disincentive for quota flipping while still recognizing the importance of not unduly restricting business restructuring. Each board is responsible for defining “business unit” based on how they regulate.

The majority decision’s use of “total quota holdings within a business unit” means what it says. It is not a reference to shares held by a corporate entity.

With respect to the issue raised in the second bullet, the majority agrees that the direction in paragraph 162(c)(i) requires clarification. The intent of this direction is that if a quota transfer does not result in an overall change in total quota holdings within a business unit (e.g. within a corporation or partnership), quota holders within that business unit remain eligible to receive growth. For example, shareholders or partners within a business unit can change, percentages of ownership can change, as long as the total quota holdings within the business unit do not change.

In relation to succession planning and further exceptions, as per the majority response above and its April 26, 2018 response to the Milk Board (copied to you), the majority considered the issue of exceptions and made a considered decision. The one exception to being ineligible to receive growth for 12 months following a transfer of any quota is described in paragraph 162(c)/(i)¹. The decision stands, and will not be revisited at this time. If in the future the Chicken Board wishes to advance a case for further exemptions, it will be required to be specific, and comply with paragraph 164 of the majority decision.

164. If commodity boards decide there is a sound marketing policy rationale for change to these quota management directions, BCFIRB will require substantive, objective information with a supporting SAFETI analysis that includes considerations such as industry competitiveness and public policy objectives.

¹ 162(c)(i) If a quota transfer does not result in an overall change in total quota holdings within a business unit (e.g. within a corporation), quota holders within that business unit remain eligible to receive growth.

Chicken Board question 3: Paragraph 171 provides that BCFIRB rescinds “a) Last In-First Out (LIFO) on all quota held by a producer. Can you confirm this means that a grower that has met the conditions prescribed by the commodity board and has received growth quota is able to transfer quota held prior to the growth quota being issued without penalty? In the case of a farm and quota transfer, does 10/10/10 apply to growth quota that has been issued within ten years of the farm and quota transfer?”

The majority made a considered decision when it rescinded LIFO on all quota held by a grower. With LIFO rescinded, producers that meet the conditions prescribed by the commodity board can choose which quota to transfer. Whether or not there is a BCFIRB-directed transfer assessment taken on the quota transferred depends on the type of quota (e.g. growth, new entrant, purchased), and, in the case of growth, new entrant or other incentive quota, when it was issued.

In the case of a farm and quota transfer, 10/10/0 would apply to the transfer of growth quota issued within ten years of the farm and quota transfer.

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

Regards,



Kirsten Pedersen,
Executive Director

cc: Stephanie Nelson, Executive Director
BC Broiler Hatching Egg Commission

Katie Lowe, Executive Director
BC Egg Marketing Board

Robert Delage, General Manager
BC Milk Marketing Board

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BCFIRB website