



May 3, 2007

File: 44200-60/SPEC REV

DELIVERED BY EMAIL

Bruce Cook, Chair
British Columbia Broiler Hatching Egg Commission

Ron Kilmury, Chair
British Columbia Chicken Marketing Board

David Taylor, Chair
British Columbia Egg Marketing Board

Blaine Gorrell, Chair
British Columbia Milk Marketing Board

Ron Charles, Chair
British Columbia Turkey Marketing Board

Dear Sirs:

**REVIEW OF SPECIALTY PRODUCTION AND NEW ENTRANT PROGRAMS –
IMPROVING ACCESS TO THE SUPPLY MANAGEMENT SYSTEM – ELIGIBILITY
CRITERIA FOR NEW ENTRANT PROGRAMS**

Thank you for the responses received to the February 16, 2007 letter of the British Columbia Farm Industry Review Board (BCFIRB) in which draft eligibility criteria for new entrant programs (NEP) were proposed. These draft criteria were in response to questions arising with respect to the programs of the British Columbia Egg Marketing Board (Egg Board), the British Columbia Milk Marketing Board and the British Columbia Turkey Marketing Board.

As previously stated, the BCFIRB considers the new entrant program essential to the strength, viability and credibility of the regulated marketing sector. This reflects broader policy directions provided by government through the Regulated Marketing Economic Policy of the Ministry of Agriculture and Lands and by this board in its September 2005 Specialty Market and New Entrant Directions. Having reviewed some significant disparities and omissions among the policies of the boards, and having considered the responses provided to our draft directions of

British Columbia
Farm Industry Review Board

Mailing Address:
PO Box 9129 Stn Prov Govt
Victoria BC V8W 9B5
Telephone: 250 356-8945
Facsimile: 250 356-5131

Location:
3rd Floor, 1007 Fort Street
Victoria BC V8V 3K5
Email: firb@gov.bc.ca
Website: www.firb.gov.bc.ca/

February 16, 2007, at this time we wish to provide the following supervisory directions under section 7.1 of the *Natural Products Marketing (BC) Act*.

Supervisory Directions – New Entrant Program Eligibility Criteria

Each commodity board is directed to review and amend as necessary its new entrant program to ensure that the following principles and provisions are reflected in its orders:

1. That no person who owns or has previously held quota in one of the SM5 sectors (milk, eggs, turkey, chicken, broiler hatching eggs) is eligible to apply for or receive new entrant quota.
2. That for purposes of requirement 1:
 - (a) “person” includes that person in their own name, any partnership in which that person is or was a partner, or any company or limited partnership in which that person holds or has held shares; and
 - (b) “person” includes spouse. A spousal relationship is a relationship in which persons (i) are married or (ii) are cohabiting in a conjugal relationship, having so cohabited for a continuous period of at least one year.
3. That to be eligible to remain on or be added to a waitlist, every applicant is required to file with the commodity board a sworn or notarized document:
 - (a) Making full disclosure with regarding to items 1 and 2, and undertaking that the applicant will promptly notify the commodity board of any new information or developments pertaining to required disclosures at any time while the person remains on the waiting list.
 - (b) Undertaking that the applicant understands and is prepared to comply with all the requirements of the new entrant program as they exist from time to time, including the requirement to operate any quota granted under the program as an independent production unit, and be involved in the day-to-day operations of the farm.
 - (c) Confirming that all the rights and privileges subsequently obtained under the new entrant program, including quota subsequently granted, may be revoked without compensation if it is determined that the applicant has provided false or misleading information, or has failed to comply with the conditions or requirements of the program.
 - (d) Confirming that the applicant understands and agrees to the publication of that person’s name on the waitlist, or that person’s name as a successful applicant, as a requirement of participation in the new entrant program.

4. That opportunities for the public to put their names on existing new entrant waitlists will be posted on the commodity board's website and in any sector where only a limited number of names is allowed on a new entrant waitlist, the commodity board will notify the public through its website of upcoming vacancies on the waitlist and provide a reasonable time period (in no case less than 30 days) for applications to be made to be added to the waitlist.
5. That where a commodity board is about to offer new entrant quota to a person on a new entrant waiting list, the name of that person and the board's intent to issue quota to that person will be published on the board's website and provide a reasonable time period (in no case less than 30 days) for objections to the quota offering to be made, if applicable.
6. That the new entrant waiting list as it exists from time to time will be published on the commodity board's website made available to the public.
7. That no person shall receive new entrant quota unless the applicant submits a business plan which satisfies the commodity board (a) that the content of the applicant's business plan is satisfactory to the board and (b) that the new entrant quota will be grown on an independent production unit, i.e., a production unit that is separate and apart from any farm on which quota is actively being grown by another person.
8. That a new entrant quota holder is at all times required to be actively engaged in the production of new entrant quota on an independent production unit.
9. That persons aggrieved by or dissatisfied with an order, decision or determination of a board with respect to their own or another's placement on a waiting list, or the offering of a new entrant quota to another person on the list, have the right to appeal to BCFIRB.

As outlined in BCFIRB's February 16, 2007 letter, it is our view that family members of persons who presently hold quota should not be categorically excluded from applying for new entrant quota where they genuinely wish to develop a farm operation independent from that of the quota holder. For this reason, BCFIRB is excluding only spouses of quota holders from eligibility on the basis that they are fairly presumed to be in a relationship of economic codependency with the quota holder. The policy goals of the new entrant program as it relates to other family members are more properly addressed through the other requirements related to transparency of process and operation of independent farm operations. Those latter requirements are intended to address the concern that new entrant quota is not granted to persons that may use it to augment an existing farm operation.

BCFIRB recognizes that no set of rules can address every eventuality, and there will undoubtedly be cases where commodity boards will be called upon to make decisions that are not specifically contemplated by the rules, where the rules are ambiguous, or where exceptional circumstances are asserted in favour of an exemption from their orders (which each of the schemes allows, based on power delegated from s. 11(1)(e) of the *Natural Products Marketing*

(BC) Act. When exercising these judgments, boards and commissions must have regard to the purposes or principles underlying the new entrant program, namely:

- new entrant programs exist because they are desirable as a matter of sound marketing policy to encourage persons to enter into the supply management system;
- these persons should be genuine new entrants to that system and not have personally profited from that system by having previously held quota either personally or through their financial interests in a corporation or partnership;
- new entrant programs should recognize that diversification of the producer base is equitable and desirable having regard to the history and development of the quota system; and
- making new entrant quota available to new producers encourages innovation, regional priorities and diversity, new ideas and new voices in the supply management system.

These are minimum requirements to be incorporated into the orders. They are not exhaustive, and they are not intended to supplant the many other helpful provisions contained in the existing orders which are not inconsistent with these requirements (for example, section 6 of the British Columbia Broiler Hatching Egg Commission's Orders, headed "Determination as to Whether the Entrant is Actively Engaged in Broiler Hatching Egg Production").

Finally, it is important to emphasize that public confidence in new entrant quota programs requires not only appropriate policy rules, but ongoing compliance by quota holders. As such, the BCFIRB reminds the boards to ensure that attention is paid to appropriate monitoring, auditing and enforcement of the new entrant programs.

Thank you for your attention to this matter.

Yours truly,

A handwritten signature in dark ink, appearing to read "Richard Bullock", written over a light-colored rectangular background.

Richard Bullock
Chair

pc: Daphne Stancil, Assistant Deputy Minister
Strategy, Policy and Legislation
Ministry of Agriculture and Lands

BCFIRB Website