

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

**Prior Approval Review of the
British Columbia Egg Marketing Board
Quota Distribution Policy for National and Provincial Allocations**

DECISION

October 30, 2009

INTRODUCTION

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). Section 37(c) of the Egg Scheme requires that any new allocation of quota to producers, and any terms and conditions for the allocation of quota established by the British Columbia Egg Marketing Board (Egg Board), be approved by the British Columbia Farm Industry Review Board (BCFIRB).
2. On July 21, 2009, the Egg Board submitted its Quota Distribution Policy for National and Provincial Allocations (Quota Distribution Policy) to BCFIRB for approval. This document sets out the Egg Board's proposal for distributing 60,139 layers (hens) of quota it received through an overbase allocation from Egg Farmers of Canada (EFC) earlier this year, as well as a further 22,750 layers of additional quota that is available, for a total of 82,889 layers.
3. As outlined in the Quota Distribution Policy, the Egg Board proposes that all but 12,000 of these layers will be distributed amongst all registered quota holders, both specialty and mainstream, on a pro-rata basis. This would result in each registered producer receiving a 2.95% increase on their current quota holdings.
4. Subsequent to submitting its Quota Distribution Policy, the Egg Board received a further overbase allocation of 775 layers from the EFC. The Egg Board now proposes to also allocate these layers, as well as enough additional layers to increase the overall pro-rata allocation to all registered growers to 3.0% on current quota holdings, in accordance with the terms in the Quota Distribution Policy. The Egg Board has asked BCFIRB to consider these further allocations in addition to those outlined in the Quota Distribution Policy as part of its approval process.
5. Between August 6 and August 21, 2009, BCFIRB invited industry stakeholders and interested persons to submit written comments on the Egg Board's Quota Distribution Policy. BCFIRB received ten submissions in response to this invitation. On September 22, 2009, BCFIRB issued a follow up document to the Egg Board with comments and questions on the Egg Board proposal and the stakeholder submissions.
6. The Egg Board provided a response to BCFIRB's follow up document on October 7, 2009. BCFIRB then invited industry stakeholders and interested persons to make final comments on the Egg Board's proposal, and received four further submissions before October 16, 2009. BCFIRB also invited the Egg Board to submit final comments in response to the stakeholder submissions by October 20, 2009, but did not receive any further submissions from the Egg Board.
7. This decision concerns only the Quota Distribution Policy and the related allocations submitted by the Egg Board for BCFIRB approval. The decision does

not consider the Egg Board's New Producer Program Rules, which were also submitted to BCFIRB for approval. Similarly, the decision does not consider special circumstances applications that were made with respect to the Egg Board's new entrant program. The New Producer Program Rules and the special circumstances applications will be the subject of separate decisions.

DECISION PROCESS

8. The panel considered expectations previously communicated to the Egg Board, including those in the 2000 Egg Quota Allocation Review, the July 2004 Ministry Regulated Marketing Economic Policy and the Specialty Review.
9. The panel carefully reviewed all of the concerns and evidence raised in each of the submissions but in making its decision considered only those matters that touch directly on the distribution of quota in British Columbia and which might affect that distribution in a direct way.

USE OF EXISTING QUOTA ALLOCATIONS

10. Several stakeholder submissions raised questions related to whether quota that has already been allocated to producers by the Egg Board is being used effectively for the maximum benefit of the industry. Specifically these stakeholders raised concerns about current utilization of the allocation British Columbia receives from the EFC, its national agency, as well as about eggs surplus to the table market, and suggested that these issues should be considered by the panel.
11. With respect to stakeholders' concerns about underutilization of the EFC allocation, the panel considers the 'allowable utilization' – under which British Columbia must not produce more than 97% of its EFC allocation over a six month period – to be a systemic limit, established by EFC. While this necessarily constrains utilization to some degree, the panel sees no evidence that the proposed Quota Distribution Policy will further limit or constrain utilization, or prevent British Columbia from fully achieving the EFC 'allowable utilization', going forward.
12. With respect to stakeholders' concerns around eggs surplus to the table market, the panel notes that these eggs play an important role in supplying markets for industrial products. However, in the panel's view, questions regarding the appropriate level of surplus eggs, and how all of British Columbia's competing market needs can best be served in a sector which is supply managed, raise systemic issues that, though important, are beyond the scope of this review.

RESERVES

13. The Egg Board has indicated that following the allocations contemplated in the Quota Distribution Policy, it will retain approx 1.5% of its national allocation as an

industry management sleeve. This reserve will be used to support innovation, provide for the Small Lot Authorization Program, balance production, and respond to unexpected marketing concerns or opportunities. In the proposed Quota Distribution Policy, the Egg Board indicated that it is considering withdrawing 12,000 layers from this reserve for allocation to its New Producer Program in 2010. As outlined below, the panel is directing that this allocation be made. This will reduce the reserve to approx 1.0% of the EFC allocation beyond 2009. This is consistent with the size of the Egg Board's industry management reserve in recent years.

14. The panel accepts the Egg Board's conclusion that the reserve contemplated in the Egg Board Quota Distribution Policy will meet current industry management needs.
15. The panel notes, however, that present rates of enrollment in the Small Lot Authorization Program are very low. It is possible that there will be an increased need for allocations to this program in the future. The panel encourages the Egg Board to continue to monitor overall industry needs and to be prepared to adjust its industry management reserve accordingly.

RESPONDING TO SPECIALTY, REGIONAL AND MAINSTREAM MARKETS

16. In the Quota Distribution Policy, the Egg Board proposes to allocate 12,000 layers of quota to its New Producer Program in 2009. The Egg Board has indicated that it intends to give priority to specialty (organic, free range, and free run) production in its distribution of this quota. Beyond this, the Egg Board has indicated that between the additional allocations contemplated in the Quota Distribution Policy and the distribution of the further reserves it has since received from EFC, it intends to allocate a pro-rata increase of 3.0% on current quota holdings amongst all existing producers. Submissions from several industry stakeholders supported the pro-rata distribution.
17. The Egg Board presented considerable data on specialty market trends in the Quota Distribution Policy; however, much of this data was aggregated at the provincial or national level, or was limited to metropolitan Vancouver. The Egg Board did not include in its proposal data that could be used to interpret market trends in other regions, nor did it reflect on the possibility that these trends may differ from broader trends at the provincial and national levels. Similarly, regional stakeholders did not provide substantive information that would have helped to clarify regional market trends in their submissions.
18. The absence of regional market data presented challenges to the panel's review of the Quota Distribution Proposal. Nonetheless, the panel accepts that prioritizing specialty production through the New Producer Program, in conjunction with the pro-rata allocation which existing mainstream and specialty producers will each receive, will be sufficient to address the recent and projected growth in specialty

markets that is shown in the available data. With respect to support for regional industries, the panel sees no evidence that the proposed pro-rata distribution – which the Egg Board has indicated will neither encourage nor discourage regional development – will negatively impact regional industries.

19. While the panel accepts the Egg Board's proposal, in light of the challenges faced in assessing whether enhanced support to regional industries is necessary, the panel directs the Egg Board to establish mechanisms for better tracking of regional market demands for both mainstream and specialty products going forward. BCFIRB will expect the Egg Board to report more fully on regional market demands, and to consider these and other factors that may impact on the regional distribution of quota, going forward.

SUPPORT FOR THE NEW PRODUCER PROGRAM

20. As indicated above, the Egg Board has proposed that 12,000 layers be allocated to the New Producer Program in 2009, and that preference will be given to specialty production in the distribution of this quota. The Egg Board also indicated that it would consider allocating a further 12,000 layers to the program in 2010, pending results of the 2009 program.
21. While several stakeholders raised concerns about whether the New Producer Program and the allotment to and distribution of quota through this program might invite inefficiency into the egg industry, the panel does not agree that the program is inherently inefficient. Rather, inefficiency may result from the size of the allocations issued to individual producers in the program (a matter that was not considered in this decision but which will be decided in the panel's decision on the Egg Board's New Producer Program Rules), and from the other business interests and decisions made by these producers, a matter which is clearly beyond the scope of this review.
22. Further, both the Provincial Government and BCFIRB have in the past noted that new entrant programs are an important means of diversifying the producer base, addressing succession, and encouraging innovation in supply-managed industries. New entrant programs are also an important means of maintaining a positive public perception of these industries.
23. In the panel's view, the importance of the public policy goals served by the New Producer Program outweigh any risk of increased inefficiency. As such, the panel directs that in addition to the 12,000 layers the Egg Board will allocate under the program in 2009, the Egg Board must also allocate the full 12,000 layers proposed for allocation under the program in 2010. Although the Egg Board has already indicated that it has 'earmarked' this quota for the 2010 program (pending the results of the program in 2009) this direction will ensure that this allocation is issued.

FACILITATING DIVERSIFICATION AND INNOVATION IN THE SYSTEM

24. In a submission on the Egg Board Quota Distribution Policy, one stakeholder raised questions as to whether the policy should provide for incentives to those who have risked investment diversifying into specialty production, and/or to encourage further diversification. In the view of the panel, the matter of incentives is only relevant to the Quota Distribution Policy insofar as incentives may at times be necessary to address specialty market demands. As indicated above, the panel is satisfied that the Quota Distribution Policy (including the preference that will be given to specialty production under the New Producer Program in 2009) addresses recent and projected growth in specialty markets. The panel concludes that an allotment towards incentives to encourage further specialty production is not necessary at this point.
25. In a similar vein, a different stakeholder raised questions as to whether the Quota Distribution Policy provided adequate opportunities for non-producers or existing producers who developed innovative egg products. As noted above, the panel is satisfied that the industry management sleeve that the Egg Board proposes to maintain provides for sufficient room to encourage and address innovation in the industry. The panel considers the question of how that innovation is best facilitated within this reserve to be beyond the scope of this review.

EGGS FOR PROCESSING QUOTA

26. In addition to the quota allocations and reserves proposed by the Egg Board, British Columbia is also allocated 100,000 layers of quota under the EFC Eggs for Processing Program. The Egg Board's proposed Quota Distribution Policy does not touch on the distribution of this quota. However, and as noted by a stakeholder, the Eggs for Processing quota could go a significant distance towards addressing demand for industrial product and maximizing production on allocation currently available to British Columbia. As such, the panel accepts that it is appropriate that this quota be considered as part of its approval review.
27. The Eggs for Processing quota that has been allocated to British Columbia is currently unutilized. The panel understands that the Egg Board has been working to facilitate an agreement for the production of this quota, but that it has met with limited success in engaging producers in this regard. Given the role that the Eggs for Processing Quota could serve in meeting markets and the benefits that it could provide to the British Columbia egg industry, the panel recommends that the Egg Board place a high priority on facilitating and finalizing an arrangement for production of this quota.

CONFLICT OF INTEREST

28. Finally, in their submissions on the Egg Board Quota Distribution Policy, a number of stakeholders raised a concern about a perceived conflict of interest where egg

producers on the Egg Board are involved in decisions regarding quota distribution. While the panel acknowledges this concern, it also notes that this independent review remedies any conflict of interest that may have existed.

CONCLUSION

29. The panel approves the Egg Board's proposal to distribute the allocations received from Egg Farmers of Canada and other available quota as follows:
- 12,000 layers to the New Producer Program in 2009, with preference to specialty production in the distribution of this quota; and,
 - 3.0% increase over current quota on a pro-rata basis to all registered producers.
30. The panel directs that the Egg Board also issue a further 12,000 layers under the New Producer Program in 2010.

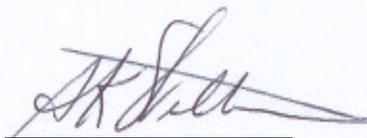
Dated at Victoria, British Columbia, this 30th day of October 2009.



Sandi Ulmi
Vice Chair



Ron Bertrand
Member



Suzanne K. Wiltshire
Member