

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Prior Approval Review of the
British Columbia Egg Marketing Board
2010 Quota Distribution Policy

DECISION

November 5, 2010

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 the British Columbia Farm Industry Review Board (BCFIRB) prior approve any new allocation of quota to producers, and any terms and conditions established by the British Columbia Egg Marketing Board (Egg Board) for the allocation of quota.
2. This document sets out the first of two decisions arising from concurrent review processes affecting the allocation of egg quota in British Columbia. This first decision is made with respect to BCFIRB's prior approval review of the Egg Board's 2010 Quota Distribution Policy (Policy 10-03). The second decision, to follow, is on the joint BCFIRB-Egg Board review of the Egg Board's New Producer Program Lottery.
3. On August 4, 2010, the Egg Board submitted its 2010 Quota Distribution Policy to BCFIRB for approval. This policy document sets out the Egg Board's proposal for distributing 62,534 units (layers or hens) of quota obtained through an over-base allocation from Egg Farmers of Canada (EFC) earlier this year, plus an additional 37,000 units of quota which the Egg Board has held in reserve, for a total of 99,534 layers.
4. In the 2010 Quota Distribution Policy, the Egg Board proposed that all but 12,000 of these layers would be distributed amongst all registered quota holders, both specialty and mainstream, on a pro-rata basis. This would result in all registered producers receiving a 3.46% increase on their current quota holdings. The remaining 12,000 birds would be allocated to organic production through the Egg Board's 2010 New Producer Program.
5. Between August 5 and August 31, 2010, BCFIRB invited industry stakeholders and interested persons to submit written comments on the Egg Board's Quota Distribution Policy and received 21 submissions during this period. On September 22, 2010, BCFIRB held in-person meetings with stakeholders to receive oral submissions on the Egg Board's proposal. Egg Board representatives were also in attendance to answer questions raised in the meetings. On September 27, 2010, BCFIRB sent a letter to the Egg Board with follow-up questions and comments.
6. On October 5, 2010, the Egg Board provided written responses to each of the stakeholder submissions received during the comment period and on October 7, 2010, submitted its final recommendations with respect to the 2010 Quota Distribution Policy to BCFIRB. In its final recommendations, the Egg Board, as a result of the most recent consultation process, proposed to allocate an additional 6,000 layers to specialty production under the New Producer Program. The final proposal, then, was for the allocation of 105,534 layers of which 87,534 would be allocated pro-rata to

registered producers, and of which 18,000 would be allocated to specialty production under the New Producer Program.

DECISION PROCESS

7. The panel considered expectations previously communicated to the Egg Board, including those in the 2000 Egg Quota Allocation Review, the July 2004 Ministry Regulated Economic Policy, the 2005 Specialty Review, the 2009 Prior Approval Review of the Egg Board Quota Distribution Policy and New Producer Program Rules, and BCFIRB's December 17, 2009 letter to the Egg Board highlighting lessons learned from the 2009 review.
8. The panel carefully reviewed all of the submissions from the Egg Board and from those persons who contributed comments during the written and oral submission processes but in making its decision considered only those matters that touch directly on the distribution of quota in British Columbia and on the Egg Board's New Producer Program Lottery. Accordingly, the panel will not refer to all of the points raised in these submissions in its decisions.
9. Similarly, the panel does not intend to reiterate the substantial background on the 2009 and 2010 allocation reviews in this document. This information remains available for interested readers on the BCFIRB website¹.

RESERVES

10. BCFIRB has repeatedly stressed the importance of clear and transparent accounting and reporting with respect to quota management to the Egg Board. In its July 18, 2006 Specialty Directions, BCFIRB required the Egg Board to provide an annual accounting of its quota reserves. A letter from BCFIRB to the Egg Board dated December 17, 2009, following last year's quota allocation review, noted that the Egg Board's failure to meet these reporting requirements had caused unnecessary delay to the prior approval process and requested that the Egg Board "continue looking at how this type of reporting might more effectively be provided to BCFIRB – and industry stakeholders generally – in future".
11. In the 2009 quota allocation review, the Egg Board indicated that it intended to reserve approximately 1% of its national allocation (25,000 layers) in an 'Industry Management Sleeve' which would be used to assist with inventory management, to address crises that may arise in the industry, to meet unexpected market opportunities, to provide for the Small Lot Authorization Program, and to allocate temporary production rights to producers wishing to pursue the development of innovative products under Research Experiment Permits. This was in accordance with past practice of the board. In addition, the Egg Board maintained 10,750 hens in a 'Provincial Reserve' (originating from transfer assessments and other credits), and 24,000 birds in a reserve earmarked for the future New Producer Program (with

¹ <http://www.firb.gov.bc.ca>

12,000 of these scheduled to be allocated through a lottery draw in 2009 and the remaining 12,000 through a second draw in 2010).

12. Due to delays in finalizing the New Producer Program, the Egg Board did not hold a lottery to distribute the 2009 New Producer Program quota until March 2010. At that point, four applicants were selected to receive the quota; however as of yet, only one of these successful applicants is actively producing eggs. As such, the Egg Board has allocated 3,000 layers to this producer under the 2009 New Producer Program and, while not evident in its 2010 proposal, the Egg Board has committed to allocating the remaining 9,000 layers that were earmarked for the 2009 New Producer Program as the other successful applicants are ready to begin production².
13. The Egg Board's 2010 Quota Distribution Proposal indicates similar reserves prior to the 2010 allocation: the 25,000 'Industry Management Sleeve', a 10,000 layer 'Provincial Reserve', and a 12,000 layer New Producer Program reserve (with the latter representing quota earmarked in 2009 for allocation through the 2010 New Producer Program)³. However, whereas in 2009 the Small Lot Authorization Program and Research Experiment Permits were each provided out of the Industry Management Sleeve, the Egg Board has disaggregated these programs from the sleeve in its 2010 proposal. As such, the proposal also indicates separate reserves for the Small Lot Authorization Program (2,020 layers remaining out of the 10,000 layers the Egg Board allocates for this program) and for 'Research Experiment Permits' (3,280 layers remaining, while the Egg Board's overall allocation to this program is unknown).
14. The Egg Board has indicated in its 2010 proposal that it intends to distribute the 25,000 layers contained in the Industry Management Sleeve as part of its pro-rata allocation. The Egg Board suggests that the sleeve is no longer needed given enhanced accuracy in quota utilization in the egg industry and increased flexibility from EFC with respect to inventory management.
15. The Egg Board's 2010 Quota Distribution Proposal has significant shortcomings with respect to its reporting on quota reserves. The origin of the quota in the new Small Lot Authorization Program and Research Experiment Permit reserves is unclear, as is the origin of the additional 6,000 bird allocation proposed for a future New Producer Program lottery. Also, the 9,000 layers remaining to be allocated under the 2009 New Producer Program appear to be unaccounted for. Given these questions, it is unclear what reserves will remain following the 2010 quota distribution. In addition to raising concerns with respect to transparency, these shortcomings cast doubt on the accounting – and management – of those reserves. The Egg Board is required to

² The Egg Board allocates quota to entrants under the New Producer Program when production begins (i.e. when hens reach 19 weeks). The Egg Board estimates that the remaining successful applicants from the 2009 New Producer Program will be in production by spring 2011.

³ While this second New Producer Program lottery was originally scheduled for 2010, it is most likely to take place in early 2011. BCFIRB, in its November 30, 2009 decision on the Egg Board's New Producer Program Rules, accepted this as a possibility due to delays in the first draw.

provide a full reporting of its quota reserves to BCFIRB. BCFIRB staff will follow-up with the Egg Board separately on this matter.

16. The panel expects that the Egg Board has considered the quota requirements of each of its programs (New Producer Program, Small Lot Authorization Program and Research Experiment Permits) and for overall industry management functions, and is confident that, even after reducing its reserves through the allocation of its Industry Management Sleeve, it will be able to reliably meet these needs going forward.

ADDRESSING SPECIALTY MARKETS

17. The Ministry of Agriculture's 2004 Regulated Marketing Economic Policy expects that regulated marketing boards ensure that their allocation decisions provide sufficient allocation for the development of specialty markets, and that they serve the demand for organic food and other products differentiated at the farm level. BCFIRB's September 1, 2005 Specialty Review directions recognized that boards were proposing pro rata allocations but noted that going forward, there may be differential growth between mainstream and specialty market segments. BCFIRB's directions encouraged boards to allocate quota in accordance with market demands and as required for differential market requirements and growth.
18. In the process of developing its 2010 Quota Distribution Proposal, the Egg Board considered sales trends for specialty eggs in British Columbia. In its proposal, the Egg Board notes that A.C. Nielsen *MarketTrack* sales data shows that sales of specialty eggs decreased by 1% in British Columbia in 2009, and increased by 2.4% in Metro Vancouver in the same time period. This marks a reduction in growth from 2008, when sales of specialty eggs increased by 8.6% in British Columbia and 9.0% in Metro Vancouver.
19. The Egg Board also considered specialty egg imports into British Columbia. The Egg Board's proposal indicates that in 2009, a total of 4,536 boxes of specialty eggs (3,300 free run and 1,236 organic) were imported to the province. These figures are based on inter-provincial import data. The Egg Board does not track inter-company transfers of eggs for graders, distributors and retailers.
20. The Egg Board also solicited grader feedback on specialty market demands in developing its proposal. Through this feedback, the Egg Board determined that there was a need for approximately 31,250 additional quota units of specialty production (19,250 organic, 3,000 free range and 9,000 free run) amongst graders.
21. In its 2010 Quota Distribution Proposal, the Egg Board proposed to increase current quota allocations to specialty production through two mechanisms:
 - First, by committing 12,000 layers to organic production under its 2010 New Producer Program. This quota will be assigned by lottery in 2011 (due to program delays as explained above).

- Second, by providing all registered specialty producers with a 3.46% increase on their base quota holdings. Since mainstream egg producers will also receive this increase, this portion of the allocation is not a differential allocation.
22. In its revised proposal, the Egg Board proposes to allocate a further 6,000 layers under its New Producer Program once the 2009 and 2010 new entrants have commenced actively producing eggs. The Egg Board indicates that this allocation will be held for specialty (very likely organic) production, provided that the market remains stable for this egg class.
23. Although the Egg Board considered making a further differential allocation to specialty production (i.e., beyond that which will be achieved through the New Producer Program) to help address the specific demands identified by graders, it concluded that this was unnecessary. The Egg Board suggests that a significant portion of this demand has already been met by way of mainstream producers switching some of their quota over to specialty production. The Egg Board notes that its policy is to allow producers to switch some or all of their quota between egg classes and type provided they have the support of a grader. Specifically, the Egg Board identifies that 42,780 units had been switched into specialty production in 2010 as of August 4 (800 organic, 12,200 free range, 29,780 free run). The Egg Board also suggests that it is aware of an additional volume of quota, approximately 10,000 units, that will soon be switched from mainstream into free run production⁴. The Egg Board suggests that this recent and projected quota switching, when combined with the allocations to specialty production under the New Producer Program and the pro-rata increase, will effectively address current specialty market demands as indicated by graders. However, the Egg Board did not provide a detailed numerical breakdown of how the needs of graders would be met in their proposal.
24. The Egg Board also suggests that, going forward, any growth in demand for specialty production will be met by producers of mainstream eggs switching additional quota into specialty production. In other words, the Egg Board argues that quota switching is a good proxy for consumer demand, and that mainstream egg producers are responsive to market demand and will switch their quota into specialty production in accordance with this demand.
25. Numerous stakeholders suggested that the Egg Board proposal does not go far enough to address existing and future demands for specialty production. Stakeholders indicated four main areas of concern:
- a) It was noted that there are significant limitations in the data that the Egg Board has presented on specialty markets. Specifically, the A.C. Nielsen *MarketTrack* sales data utilized by the Egg Board only captures approximately 40% of the eggs produced in BC, and does not track sales at specialty, health food and convenience stores, nor sales direct to consumers at the farm gate.

⁴ The Egg Board has not yet received formal application for the switching of this additional quota.

- b) Stakeholders suggested that there are existing and significant specialty egg shortfalls in both the table and processing markets. A number of stakeholders provided information from their own or other restaurant, grading, distribution, and retailing businesses to illustrate these shortfalls.
 - c) Stakeholders referenced broader trends related to animal welfare in British Columbia, in Canada, and internationally. For example, the transition to cage-free eggs amongst some businesses and in some municipalities in British Columbia and the impending bans on eggs produced by caged laying hens in California (2012) and the European Union (2015) were each seen as significant indicators of changing consumer preferences. The Manitoba Egg Farmers' recent decision to move to enriched cages in that province was similarly seen by stakeholders as producers taking a leadership role in responding to these changing preferences.
 - d) With respect to the Egg Board's argument that mainstream producers are responsive to changing market demands for specialty eggs and will switch over their quota to address these demands, several stakeholders suggested that there are significant barriers that may act to discourage mainstream egg producers from switching quota into specialty egg production. These include the potential need to acquire additional land and barn space, as well as the changes that would be required to farm infrastructure, to existing relationships with suppliers and graders, and to producers' lifestyles. In addition, the certification requirements may act to discourage quota switching, especially in the case of organic production, where a producer may face a transition period of up to three-years.
26. The panel has examined the market information and arguments presented by both the Egg Board and stakeholders carefully.
27. With respect to sales and shortfalls data, it is clear that there are real limits to the available information on specialty egg sales. Widely available sales data sets (e.g. A.C. Nielsen's *MarketTrack* data) have significant gaps. The individual reports of shortfalls provided by some stakeholders are difficult to aggregate into an overall picture. While the panel appreciates the work that the Egg Board did to consult with graders prior to finalizing its proposal, it recognizes that this, too, may only provide a partial picture of market demands, which will naturally shift over time. While the Egg Board could set up its own system for collecting data to address the gaps in market information, the panel accepts that this may be very costly.
28. The limited information on specialty markets presents challenges to the panel's analysis of whether specialty markets will effectively be served by the Egg Board's 2010 Quota Distribution Proposal.

29. In assessing this question, the panel considered the utilization of the Specialty Buy-Back Program⁵ as one potential indicator of the degree to which markets for specialty eggs are being fully served. The panel is of the view that a consistent reliance on this program over time, together with full utilization of the funds available for the program, would be one indication that table markets for specialty eggs were consistently being filled. The panel notes that, as of the Egg Board's 2010 Quota Distribution Program submission, only half of the \$100,000 that is currently allocated to the buyback program had been used. In other words, table markets for specialty eggs are not being oversupplied on a regular and consistent basis. This also suggests that, in accordance with stakeholder comments, processor demands for specialty eggs may be significantly under-serviced.
30. The panel observes that, in the absence of clear specialty markets data, the Egg Board has taken a cautious approach with respect to serving specialty markets in its 2009 and 2010 proposals. Specifically, the Egg Board has proposed increasing the eggs available to specialty markets very gradually, through relatively small allocations to the New Producer Programs, in combination with the portion of pro-rata increases that go towards specialty production. The panel encourages the Egg Board to consider whether alternative approaches (as opposed to gradual and small allocations) to serving specialty markets would be more appropriate going forward.
31. The panel also encourages the Egg Board to continue exploring opportunities for obtaining more extensive information on specialty egg markets for British Columbia. The Egg Board is encouraged to continue to consult regularly with graders, processors and other industry stakeholders as to their assessments of market demands. The Egg Board is also encouraged to track new sources of market information, which may become available as the specialty sector matures, such as SPINS⁶, which is not yet available in Canadian markets.
32. Withstanding the unknowns inherent in the Egg Board's proposal, the panel is satisfied that the Egg Board proposal enables producers to respond to specialty markets through its 3.46% pro rata allocation increase to all registered producers (including specialty), by making additional allocations to specialty production under the New Producer Program, and by allowing existing mainstream producers to respond to grader demand for specialty eggs by switching production type.

⁵ The Egg Board's Specialty Buy-Back Program works in conjunction with the Egg Board-EFC Industrial Product Program to reduce losses due to egg production that is surplus to table markets. The Egg Board requires graders with surplus specialty eggs to first attempt to sell them on the table market by trading among themselves or by downgrading the egg type to the next most valuable egg type (i.e., organic is downgraded to free range, free range to free run, and free run to a mainstream egg type). When specialty eggs are downgraded, the Egg Board reimburses graders for the difference in price between the categories. This specialty buy back program is funded through producer levies collected by the Egg Board.

⁶ SPINS (<http://www.spins.com>), a company providing market data for specialty food and beverage products, was suggested by a stakeholder as a possible source for obtaining data on specialty egg markets in British Columbia. Both BCFIRB and the Egg Board contacted the company during this review and were informed that SPINS is not collecting data in British Columbia at this time.

ADDRESSING REGIONAL MARKETS

33. The Ministry of Agriculture's 2004 Regulated Market Economic Policy expects that regulated marketing boards in British Columbia will ensure that their policies and decisions do not inhibit the economic viability of regional industries, that they consider the need for appropriate mechanisms to sustain regional industries, and that they strive to accommodate producers and processors who pursue innovative or specialized market opportunities that are available in a region because of the region's location or natural characteristics.
34. In its 2010 proposal, the Egg Board has achieved some disaggregation of egg sales data on a regional basis, namely by presenting A.C. Nielsen *MarketTrack* data for Metro Vancouver in addition to that for British Columbia overall. This data suggests some important distinctions in market demands for Metro Vancouver as compared to the province as a whole – for example, higher sales and higher growth in sales of specialty eggs in Metro Vancouver as compared to the province overall⁷. However, the Egg Board has not provided any data for other regions of the province. While the Egg Board notes in its October 7, 2010 letter that it continues to work with Egg Farmers of Canada and graders to improve information on regional markets and other issues regarding market conditions, results of this work are not evident in the 2010 proposal. The panel urges the Egg Board to continue its efforts to improve information on regional markets.
35. The Egg Board has noted in discussions with BCFIRB that it is reluctant to direct product to regions where grading and processing infrastructure may be limited. Nonetheless, stakeholders have suggested that egg shortfalls in markets outside of the Lower Mainland may exist. They note that consumers in regions outside the Lower Mainland are interested in purchasing locally produced eggs, and that there are environmental concerns associated with transporting eggs long distances. Furthermore, mechanisms do exist to permit small scale grading of eggs in regions, including at the individual farm level.
36. The panel accepts that there is economic risk associated with allocating production quota to regions outside the Lower Mainland given the way the industry is structured, and especially when regional markets are unknown. Because the British Columbia egg industry – including both production and processing – is concentrated in the Lower Mainland, inefficiencies can arise from decentralizing production alone. For example, inefficiencies in transport and labour are incurred if eggs are produced outside of the Lower Mainland, shipped to the Lower Mainland for grading, and then shipped back to a region outside of the Lower Mainland for sale. The challenge, then, is to find a way to pursue regional development while mitigating or avoiding these economic risks.

⁷ It is important to note that A.C. Nielsen's Metro Vancouver data set only includes a smaller subset of retailers than the data set for the province of British Columbia as a whole. As such, there may be additional differences in growth patterns between the region and the province.

37. The panel concludes that a balanced approach with respect to regional markets can be achieved by focusing, at least initially, on smaller niche markets, specifically by directing quota to regions through the New Producer Program. Panel direction with respect to this approach is provided under 'Allocation to the New Producer Program'.

SMALL LOT AUTHORIZATION PROGRAM

38. BCFIRB's September 1, 2005 Specialty Review directions required that marketing boards develop and introduce small lot permit programs to provide for product and market innovation, regional small lot agriculture, heritage breeds and farmer-direct marketing initiatives.
39. The Egg Board Small Lot Authorization Program allows individuals to keep up to 399 layers, provided the layers are certified as organic, free run, free range or heritage breed. Persons authorized under the Small Lot Authorization Program are exempted from the requirement of being licensed by the Egg Board, registering as a Registered Producer, and paying levies, provided that they do not market their eggs through a federally registered grading station. All producers wishing to produce under the program must apply annually to the Board to receive authorization to do so; this ensures that the Egg Board is able to identify small lot producers in the case of a biosecurity or food safety incident.
40. The Egg Board has set aside a maximum of 10,000 units of quota to support this program. While the program historically has been underpublicized and undersubscribed, the Egg Board's 2010 Quota Distribution Policy proposal indicates that some progress has been made during the past year. Whereas the 2009 Quota Distribution Policy review process indicated that the Egg Board had authorized only two small lot permits at that point, the 2010 proposal shows that it has now authorized 20 permits (for a total of 7,980 layers).
41. In 2009, the panel noted that given the low rates of enrollment in the Small Lot Authorization program at that time, "[i]t 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."
42. In 2010, as the total permits approach the 10,000 layer 'limit' set for the Small Lot Authorization Program by the Egg Board, the advice of last year's panel becomes increasingly pertinent. As such, the panel encourages the Egg Board to consider the appropriateness of this limit as a priority going forward.
43. A number of stakeholders suggested that allocations made through the New Producer Program could respond more immediately to specialty market needs if they were issued to producers who are already actively producing specialty eggs under the Small Lot Authorization Program.

44. The panel accepts that prioritizing new entrant quota for Small Lot Authorization Permit holders in this way might help to improve short-term market responsiveness and efficiency of the New Producer Program, while still facilitating the entry of new producers into the regulated marketing system. Panel direction with respect to this approach is provided in the following section.

ALLOCATION TO THE NEW PRODUCER PROGRAM

45. The BCFIRB September 1, 2005 Specialty Review directions required that marketing boards establish programs to facilitate the entry of new producers into the regulated marketing system. The Ministry of Agriculture and BCFIRB are of the view that such programs are an important means of succession and for encouraging innovation in the industry, and are an important part of retaining a positive public perception of the regulated marketing system. The Specialty Review directions also established that all boards' new entrant programs provide for a defined minimum number of new entrants per year. In 2006, BCFIRB directed that the Egg Board provide for a minimum of two new entrants per year through its new entrant program.
46. The Egg Board established a new entrant program in 2005, but did not make any allocations under the program prior to canceling it in 2007. The Egg Board brought forward a proposal for its current lottery-based New Producer Program in 2009 and submitted it to BCFIRB for prior approval alongside its 2009 Quota Distribution Policy. As noted above (at paragraph 11), the 2009 Policy indicated that 12,000 layers would be allocated through the New Producer Program in 2009 and a further 12,000 layers in 2010, with preference given to specialty production in each case. On October 30, 2009, BCFIRB approved the Egg Board's Quota Distribution Policy and with it the Egg Board's proposed allocations to the New Producer Program in 2009 and 2010. On November 30, 2009, BCFIRB prior approved the New Producer Program rules subject to certain clarifications and changes. As part of the November decision, BCFIRB also directed the Egg Board to start a minimum of two new producers per year starting in 2011, in accordance with its directions to the Egg Board in 2006.
47. In March 2010, as noted above (at paragraph 12), the Egg Board held its first lottery under the New Producer Program to distribute the 12,000 layers of quota committed to the program for 2009. Four applicants were selected in the lottery, which was restricted to applicants willing to produce specialty eggs. Of the four successful applicants, one has started production and has received an allocation of 3,000 layers. The three remaining successful applicants from the 2009 New Producer Program are expected to start production, and thus receive their allocations of 3,000 units of quota each, by spring 2011.
48. In its 2010 proposal and final recommendations, the Egg Board indicated that it would be allocating a total of 18,000 layers of quota under its New Producer Program. This includes the 12,000 layers committed to the 2010 program in 2009, which would be "awarded by lottery as soon as possible in 2011 for the production of organic eggs," as

well as an additional 6,000 layers to be “held for a second, future lottery of specialty birds, (very likely organic), if the market remains stable for this egg category.”

a) Scheduling of New Producer Program allocations

49. The panel notes that, unless the 6,000 layers identified in the Egg Board’s revised proposal are put to a lottery in 2011, the Egg Board’s proposal for allocations under the New Producer Program will fall short of meeting BCFIRB’s 2009 directions. Again, these directions require the Egg Board to distribute 12,000 layers under the program in 2009, 12,000 again in 2010, and to start a minimum of *two new entrants per year starting in 2011*. While the panel in last year’s review accepted that delays might mean that the quota committed to the program for 2009 might not be put to a lottery until 2010, and that the 2010 commitment might not be drawn until 2011, this does not preclude the Egg Board from also conducting a second lottery draw for the two new entrants that are necessary to meet the 2009 directions also in 2011. The panel also wishes to point out that the original 2006 direction to start two new entrants per year, if adhered to, would have had a total of 12 new entrants selected by the end of 2011 – two more than that which is called for by the 2009 direction.

50. In order to prevent any further slippage of time in meeting commitments to the New Producer Program, the Egg Board is directed to assign by lottery the 12,000 layers earmarked for the 2010 New Producer Program no later than March 2011. Further, the Egg Board is expected to consider assigning by lottery the additional 6,000 layers also in 2011, and at minimum is directed to select at least two new entrants per year through its lottery process in 2012. This would allow a period of transition for the Egg Board to catch up on its 2009 and 2010 commitments, while acknowledging that the next New Producer Program lottery originally scheduled for 2010 will likely be held in 2011. The panel directs that, after this initial period of transition and beginning in 2012, the Egg Board will consistently select a minimum of two new producers per year, without any slippage into the following year. It is important to note that this minimum requirement sets a floor for the program going forward, and does not preclude the Egg Board from starting additional new entrants in any given year. The Egg Board is directed to report annually on its progress in implementing the New Producer Program, both to BCFIRB and to its stakeholders, by way of its website and annual report.

b) Priority to Small Lot Authorization Permit holders

51. As discussed above, the panel accepts that prioritizing new entrant quota for Small Lot Authorization Permit holders might help to improve short-term market responsiveness and efficiency of the New Producer Program, while still facilitating the entry of new producers into the regulated marketing system. It would be beneficial to use existing standing capacity to produce specialty eggs where capacity already exists. Also, this approach may help to prevent a backlog in New Producer Program allocations by removing some of the time lag associated with establishing production facilities and obtaining certification.

52. The panel directs the Egg Board, starting in 2011, to give priority for at least one new entrant allocation to Small Lot Authorization permit holders.

c) Priority to regional applicants

53. As discussed above, the panel concludes that a balanced approach with respect to regional markets can be achieved in part by directing quota to regions through the New Producer Program.

54. The New Producer Program rules allow for the Egg Board to restrict lotteries by region (or group of regions) as well as by egg type (or group of egg types). Thus far, the Egg Board has not restricted the New Producer Program by region, nor does it propose to in the upcoming lotteries. The 2009 New Producer Program lottery, which was unrestricted by region, selected four applicants all of whom are located in the Lower Mainland.

55. To ensure that the New Producer Program contributes to regional development, the panel directs the Egg Board, starting in 2011, to give priority for at least one new entrant allocation to applicants proposing to produce eggs in a region other than the Lower Mainland. To ensure that the eggs produced under this New Producer Program quota will be graded locally, the panel suggests that the Egg Board establish additional application criteria so as to not present unreasonable financial costs (or other risks) to the industry generally.

BIOSECURITY, HUMAN HEALTH AND ENVIRONMENTAL CONCERNS

56. As stated in BCFIRB's 2008-2011 Strategic Plan, our board supports "A regulated marketing system that is responsive to emerging market demands, societal values, and environmental issues".

57. A number of stakeholders suggest that the Egg Board's 2010 Quota Distribution Policy proposal will not address the concentration of egg producers in the Lower Mainland, and the potential biosecurity, human health and environmental risks associated with this concentration. Furthermore, a number of stakeholders suggest that there may be animal welfare concerns associated with caged egg production facilities, and that specialty eggs are healthier for consumers. The Egg Board suggests that programs such as Start Clean Stay Clean, which includes testing for Salmonella, its biosecurity program, and its animal care standard help to ensure appropriate health and environmental practices amongst British Columbia egg producers.

58. The panel recognizes that the egg industry has realized economic efficiencies by concentrating production and processing facilities in the Lower Mainland. For as long as the egg industry is structured in this way, the egg industry must assume the associated cost of this concentration: the adoption and implementation of the highest standards for biosecurity and food safety policies and programs. As it is vital to the

sustainability of British Columbia's egg industry and to the public interest, the panel urges the Egg Board to be vigilant in ensuring these standards are adhered to.

59. While there may be a variety of societal and ecological benefits to be realized through decentralizing the industry, barriers and risks exist that pose challenges to this kind of structural transformation. As discussed above, the panel has directed the Egg Board to take a measured approach to supporting development of regional industries through future restrictions of New Producer Program lotteries to regions outside of Lower Mainland.

EGGS FOR PROCESSING QUOTA

60. 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 Egg Farmers of Canada 'Eggs for Processing' (EFP) program. This program, created in 2001, was intended to support the production of lower cost eggs for breaker markets at prices below the standard table egg cost of production. To date, this EFP quota has not been produced in British Columbia.
61. In its 2009 decision on the Egg Board's Quota Distribution Policy, BCFIRB recommended, given that the EFP quota could play an important role in meeting market needs and provide significant benefits to British Columbia's egg industry, that "the Egg Board place a high priority on facilitating and finalizing an arrangement for production of this quota." While the Egg Board indicates that it has been working to facilitate an agreement for the production of this quota, it has yet to succeed in reaching such an agreement. Furthermore, the Egg Board's 2010 Quota Distribution Policy proposal did not include recommendations with respect to the EFP quota.
62. The panel reminds the Egg Board of the significant opportunity that this quota represents for British Columbia's egg industry, and again recommends that the Egg Board place a high priority on facilitating and finalizing an arrangement for the production of this quota.

CONCLUSION

63. The panel approves the Egg Board's proposal to distribute the allocations received from Egg Farmers of Canada and other available quota as follows:
 - a) 3.46% increase over current quota on a pro-rata basis to all registered producers;
 - b) in addition to the quota remaining to be allocated under the 2009 New Producer Program, 12,000 layers to the New Producer Program in 2010, with preference to certified organic production, to be assigned by lottery no later than March 2011.

64. The panel directs that the Egg Board select a minimum of two new entrants per year under the New Producer Program starting no later than 2012. Starting in 2011, at least one new entrant allocation per year is to be prioritized for applicants holding Small Lot Authorization permits and at least one new entrant allocation per year is to be prioritized for applicants intending to produce in regions other than the Lower Mainland. The Egg Board is directed to report annually on its progress in implementing the New Producer Program, both to BCFIRB and to its stakeholders, by way of its website and annual report.
65. The panel also directs the Egg Board to provide a full reporting of its quota reserves to BCFIRB.
66. In addition to these directions:
- a) The panel expects that the Egg Board will continue to meet the quota requirements of each of its programs and for overall industry management functions, and encourages the Egg Board to consider the appropriateness of its 10,000 layer limit set for the Small Lot Authorization Program.
 - b) The panel encourages the Egg Board to continue exploring opportunities for obtaining more extensive information on specialty and regional egg markets for British Columbia. The panel also encourages the Egg Board to consider whether alternative approaches to serving specialty markets would be more appropriate going forward.
 - c) The panel urges the Egg Board to be vigilant in ensuring industry biosecurity and food safety standards are met.
 - d) The panel recommends that the Egg Board place a high priority on facilitating and finalizing an arrangement for utilizing British Columbia's Eggs for Processing quota.

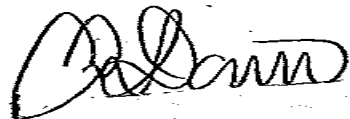
Dated at Victoria, British Columbia, this 5th day of November 2010.



Ron Kilmury
Chair



Ron Bertrand
Member



Cheryl Davie
Member