

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
2013 QUOTA DISTRIBUTION POLICY
AND
EGG CORE REVIEW

PART I

DECISION

July 28, 2014

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 issues before the BC Farm Industry Review Board (BCFIRB) are:
 - a) Prior approval of the BC Egg Marketing Board quota distribution policy submitted to BCFIRB May 5, 2014; and,
 - b) Proposed changes to previous BCFIRB directions and the Egg Scheme arising from the BC Egg Marketing Board ‘Core Review’.
3. This document sets out the preliminary decisions arising from concurrent review processes (the Egg Board quota distribution policy and the ‘Core Review’) affecting the allocation of egg quota in British Columbia. These decisions of BCFIRB include:
 - a) terms and conditions of the distribution of the 2013 national allocation;
 - b) terms and conditions of the distribution of future national allocations;
 - c) terms and conditions of the distribution of Eggs for Processing quota;
 - d) terms and conditions of the distribution of current reserve quota;
 - e) Small Lot Authorization Program;
 - f) New Producer Program;
 - g) Egg Board quota lease and exchange policies;
 - h) national Egg Farmers of Canada service fee; and,
 - i) provincial Egg Industry Advisory Committee/Specialty Egg Advisory Committee.
4. BCFIRB reviewed the Egg Board “Quota Distribution Approval and Egg Core Review” submission (May 5, 2014) which included reports on consultation with industry stakeholders. BCFIRB also reviewed stakeholder comments submitted through the Egg Board public consultation process, and expectations previously communicated to the Egg Board, including those in the 2010 Egg Quota Allocation Review and the 2005 Specialty Review. BCFIRB also met with Egg Board representatives on May 15, 2014 for additional information and asked follow-up questions of the Egg Board for clarity.

5. In making these preliminary decisions, BCFIRB considered its role in ensuring a principled approach¹ to quota management outcomes in the interest of sound marketing policy.

2013 Egg Farmers of Canada (EFC) Allocation

6. BCFIRB approves the Egg Board proposal to distribute the 67,890 layers of quota pro-rata to licensed quota holders in good standing once the following condition is satisfied:
 - a) The Egg Board demonstrates to BCFIRB's satisfaction that the process for at least four new producers (minimum 3,000 layers of quota pending further review) to enter the egg industry will be commenced in 2014 in order to meet the standing new entrant requirements for both 2013 and 2014.

Future Egg Farmers of Canada Allocation

7. BCFIRB does not approve, at this time, the Egg Board's proposal that BCFIRB pre-approve distribution of up to 3% of quota by pro-rata from an anticipated future national allocation. Should Farm Products Council of Canada (FPCC) approve such an allocation, BCFIRB is prepared to address an Egg Board proposal on an expedited basis, subject to that proposal being supported by a detailed progress report on the outcome(s) of the directions in this supervisory decision.

Eggs for Processing (EFP) Quota

8. BCFIRB approves the Egg Board's proposal to distribute the 100,000 layers of EFP quota subject to signed agreements between the Egg Board, EFC and the egg processor. The Egg Board may distribute this quota either under the currently proposed terms (pro rata to all quota license holders in good standing) or other terms as it determines appropriate. The proposal is in-line with previous BCFIRB direction that the Egg Board place a high priority on facilitating and finalizing arrangements to utilize EFP quota.²
9. BCFIRB expects the Egg Board to move forthwith to enter into the necessary agreement(s), and to report to BCFIRB if and why a signed agreement(s) cannot be reached.

¹[SAFETI – Strategic, Accountable, Fair, Effective, Transparent, Inclusive](#)

²[2010, November 5. Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy. BC Farm Industry Review Board.](#)
[2009, October 30. Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy for National and Provincial Allocations. BC Farm Industry Review Board.](#)

Reserve

10. BCFIRB does not approve the Egg Board's proposal to distribute the 35,284 layers of quota held in its Reserve pro-rata to all licensed quota holders in good standing.
11. The Egg Board must use the Reserve quota generated from transfer assessments to meet the policy objectives established in the 2005 Specialty Review³ – and confirmed in the 2009 and 2010 prior approval allocation decisions – including supporting industry renewal through new entrants, and being positioned to respond to changing markets and opportunities for innovation.
12. Before approving distribution of any remaining Reserve, BCFIRB requires the Egg Board to meet the condition set out in 6(a) and submit to BCFIRB the amount of quota remaining and its source.
13. BCFIRB expects the Egg Board will meet the commitment made in its submission to report reserves in its annual report going forward.

New Producer Program

14. BCFIRB does not approve the Egg Board's proposal not to start – or at this point, not to select – any new entrants in 2014. The Egg Board was directed in 2010 to meet its commitment of starting a minimum of two new entrants a year, starting in 2012.⁴ The Egg Board has had ample time since 2010 to determine how best to meet this direction while continuing to build – and modify as required – an effective and strategic New Producer Program.
15. BCFIRB expects that the Egg Board will now adhere to its commitment of starting a minimum of two new producers every year. Providing the Egg Board demonstrates that it is responsive to market needs, the requirement to bring new producers into the industry and fulfill other public policy objectives, the Egg Board can exercise its discretion to determine how this direction is met⁵. The Egg Board is to publicly explain its implementation rationale to stakeholders and BCFIRB.
16. Unless substantive reasons are provided to BCFIRB, the New Producer Program should continue to adhere to BCFIRB's 2010 direction⁶ to give priority for at least one new entrant allocation to Small Lot Authorization permit holders and to give

³ [2005, September 1. Specialty Market and New Entrant Submissions: Policy, Analysis, Principles and Directions.](#)

⁴ [2010, November 30. Prior Approval Review of the British Columbia Egg Marketing Board 2010 New Producer Program Lottery Recommendations. BC Farm Industry Review Board.](#)

⁵ For example, the Egg Board may determine there is a need to start 4 new entrants on one year and not start 2 the following year.

⁶ [2010, November 30. Prior Approval Review of the British Columbia Egg Marketing Board 2010 New Producer Program Lottery Recommendations. BC Farm Industry Review Board.](#)

priority for at least one new entrant allocation to applicants proposing to produce eggs in a region other than the Lower Mainland.

17. BCFIRB supports the Egg Board in its proposal to evaluate the New Producer Program in 2014.
18. As part of the New Producer Program review, BCFIRB recommends the Egg Board, on an ongoing basis, considers using the existing lottery system to establish staged entry over a number of years (e.g. as the Egg Board did with the 2011 lottery).

Small Lot Authorization Program

19. BCFIRB approves the Egg Board proposal to distribute 9,975 layers to the Small Lot Authorization Program, expanding the program from 25 permit holders (10,000 layers total) to 50 permit holders (19,975 layers total). The proposal is in line with previous BCFIRB directions to monitor industry needs and respond accordingly.⁷

Egg Farmers of Canada (EFC) Service Fee

20. BCFIRB acknowledges that the Egg Board has agreed for now to pay the EFC \$5.80 per layer service fee on the 2013 allocation. BCFIRB continues to review the service fee in the context of sound marketing policy and the governing legislation and agreements.

Quota Lease and Quota Exchange Policies

21. BCFIRB supports the Egg Board in its proposal to review its quota lease and quota exchange policies in 2014.

Egg Industry Advisory Committee (EIAC) and the Specialty Egg Advisory Committee (SEAC)

22. The Egg Scheme places a statutory obligation on the Egg Board to establish and consult with the EIAC. Pending any future change to the Egg Scheme, BCFIRB requires the Egg Board to implement its alternative proposal forthwith to re-establish and consult with the EIAC. There is no provision in the Egg Scheme that allows BCFIRB to waive this requirement as the Egg Board requests.
23. BCFIRB expects the Egg Board to move forward with re-establishing and consulting with EIAC in a timely fashion.
24. Once the EIAC is in operation, the Egg Board may, at its discretion, submit a proposal to BCFIRB to rescind the Specialty Egg Advisory Committee (SEAC). The

⁷ [2009, October 30. Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy for National and Provincial Allocations. BC Farm Industry Review Board.](#)

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proposal must clearly demonstrate how the Egg Scheme requirements will continue to be met, alongside how the intent of SEAC, as outlined in the 2005 Specialty Review, will be met under any alternative model.

25. BCFIRB expects the Egg Board will meet the commitment made in its submission to incorporate a stakeholder engagement section in its Governance Manual and report annually on stakeholder engagement activities and outcomes. BCFIRB expects the Egg Board will undertake these actions starting no later than 2014.

INTRODUCTION

26. In British Columbia, the production and marketing of eggs is regulated under the NPMA and the Egg Scheme.
27. The Egg Board, formed under the Egg Scheme, is the first instance regulator of the production and marketing of eggs in BC.
28. Under s. 7.1 of the NPMA, BCFIRB is responsible for the general supervision of all marketing boards and commissions in the province, including the Egg Board. Section 7.1(2) of the NPMA provides for this supervisory authority to be exercised “at any time, with or without a hearing, and in the manner [BCFIRB] considers appropriate to the circumstances”. Under s. 9 of the NPMA, BCFIRB “has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined by [BCFIRB] under [the NPMA]”.
29. Section 37(c) of the Egg Scheme sets out that the Egg Board requires the prior approval of BCFIRB to vary quotas the Egg Board has issued to producers and “...the terms and conditions upon which they [quota] shall be issued or transferred...”.
30. This document sets out the preliminary decisions arising from concurrent review processes affecting the allocation of egg quota in British Columbia. These decisions of BCFIRB include:
 - a) terms and conditions of the distribution of the 2013 national allocation;
 - b) terms and conditions of the distribution of future national allocations;
 - c) terms and conditions of the distribution of Eggs for Processing quota;
 - d) terms and conditions of the distribution of current reserve quota;
 - e) Small Lot Authorization Program;
 - f) New Producer Program;
 - g) Egg Board quota lease and exchange policies;
 - h) national Egg Farmers of Canada service fee; and,
 - i) provincial Egg Industry Advisory Committee/Specialty Egg Advisory Committee.

ISSUES

31. In summary, the issues before BCFIRB are:

- a) Prior approval of the BC Egg Marketing Board quota distribution policy submitted to BCFIRB May 5, 2014; and,
- b) Proposed changes to previous BCFIRB directions and the Egg Scheme arising from the Egg Board ‘Core Review’.

DECISION PROCESS

32. BCFIRB reviewed the Egg Board “Quota Distribution Approval and Egg Core Review” submission (May 5, 2014) which included reports on consultation with industry stakeholders. BCFIRB also reviewed stakeholder comments submitted through the Egg Board public consultation process along with expectations previously communicated to the Egg Board, including those in the 2000 Egg Quota Allocation Review, the 2004 Ministry of Agriculture 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 the 2010 Prior Approval Review of the Egg Board quota Distribution Policy and New Producer Program Lottery Recommendations. BCFIRB’s expectations were summarized and reflected in two public letters to the Egg Board (November 14, 2013 and March 14, 2014). BCFIRB also met with Egg Board representatives on May 15, 2014 for additional information and asked follow up questions of the Egg Board for clarity.
33. In making these decisions, BCFIRB took into account its role in ensuring a principled approach⁸ to quota management outcomes in the interest of sound marketing policy.
34. The substantial background on the 2000, 2009 and 2010 allocation reviews will not be repeated here. This information remains available for interested readers, along with the 2005 BCFIRB Specialty Review and the Ministry of Agriculture Regulated Economic Marketing Policy, on the BCFIRB website⁹.

GENERAL SUPERVISORY EXPECTATIONS

35. Over the last several years BCFIRB has worked in cooperation with BC’s regulated boards and commissions (including the Egg Board) to develop and put into practice

⁸ [SAFETI – Strategic, Accountable, Faire, Effective, Transparent, Inclusive](#)

⁹ www.firb.gov.bc.ca

principles-based regulation and its founding principles – Strategic-Accountable-Fair-Effective-Transparent-Inclusive (SAFETI).¹⁰

36. From a principles-based regulation perspective, BCFIRB used the following general supervisory process and outcomes expectations as part of its decision making.
- 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 ‘core review’ 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?

2013 EGG FARMERS OF CANADA ALLOCATION

37. In December 2013 FPCC approved EFC’s request to increase the national production (allocation) of eggs. The allocation increase triggered the Egg Board to request BCFIRB’s prior approval on its quota distribution policy to be used to distribute the new quota in BC.
38. Previous prior approvals saw BCFIRB playing a significant role in stakeholder consultations (2000, 2009, 2010), including providing regular feedback to the Egg Board as to what BCFIRB’s consultation expectations are. For example, in the 2000 Egg Quota Allocation Review Decision BCFIRB stated:

¹⁰[BCFIRB Governance Initiative](#)

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Quota policies and procedures must be open and transparent and industry stakeholders and other interested parties must be assured of access to information about the availability of quota and how it is being distributed. [emphasis added]

39. Throughout these previous consultations, BCFIRB made an effort to achieve fairness, inclusiveness and transparency by sending out notices and making correspondence and submissions available to both industry and the public on its web site.
40. In reaching its current proposals the Egg Board took a proactive approach to stakeholder consultation. Proactive stakeholder consultation is part of principles-based regulation. The Egg Board engaged licensed quota holding producers at several in-person consultation sessions. There was reasonable representation from the three regions (Lower Mainland, Interior and Vancouver Island). The Egg Board also consulted with the BC Egg Producers Association, individual egg graders, the BC Egg Processors Council, the Vancouver Humane Society, the BC Society for the Prevention of Cruelty to Animals, the University of British Columbia Animal Welfare unit and the Ministry of Agriculture.¹¹ Following submission of its current proposals to BCFIRB, the Egg Board provided general opportunity for public comment through its web site. These comments were then submitted to BCFIRB.
41. The Egg Board's collection and sharing of market data is steadily improving. BCFIRB recognizes the positive work the Egg Board did and continues to do in this area despite data availability limitations.
42. At the May 15, 2014 information meeting with Egg Board representatives, BCFIRB heard that it is important that the distribution of the new allocation be approved quickly as market share is being lost to imports of white and brown standard table eggs. BC is generally understood to be 'short' on egg quota based on population, already making the province vulnerable to imports both from other provinces and the United States. A primary concern for the Egg Board (and for the Canadian egg system as a whole) is increasing US imports – provinces are obligated to seek eggs within Canada first if they are short. Increasing US imports may indicate the national allocation system is not meeting domestic demand.
43. While the Egg Board is expressing concerns about increasing imports of white and brown standard table eggs, it is difficult to assess whether the specialty market is also short. BC is a Canadian leader in specialty production, though there is growing inter-provincial competition. US imports do not include specialty eggs. The Egg Board notes the Nielsen data is not fully capturing current sales data for specialty eggs.

¹¹ The Egg Board also consulted with the Canadian Food Inspection Agency and Vancouver Coastal Health in relation to the 'Core' Review and grading.

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44. The Egg Board states that specialty growth can be accommodated through a pro rata allocation as well as the proposed increase in Small Lot Authorization permits. The Egg Board also states that it is important, given demand in all markets, that the 2013 EFC allocation be put into production in a timely way.
45. BCFIRB approves the Egg Board proposal to distribute the 67,890 layers of quota pro-rata to licensed quota holders in good standing once the following condition is satisfied:
 - a) The Egg Board demonstrates to BCFIRB's satisfaction that the process for at least four new producers (minimum 3,000 layers of quota pending further review) to enter the egg industry will be commenced in 2014 in order to meet the standing new entrant requirements for both 2013 and 2014.

FUTURE EGG FARMERS OF CANADA ALLOCATION

46. The amount of provincial production of eggs is determined at the national level. EFC submits any proposed changes to FPCC. FPCC must approve any changes in national production (allocation) before those changes can take effect.
47. The Egg Board is proposing BCFIRB 'pre prior approve' a policy for distributing a portion of quota from a future national allocation.
48. BCFIRB appreciates a 'pre prior approval' may help expedite putting any future allocation into production – on average it takes about 2 years for a new allocation to be produced from the time flock schedules are finalized and when chicks are ordered to when a layer is in full production. However there are other factors to consider.
49. A previous allocation request at the national level (2011) was not approved as FPCC had outstanding concerns about the Industrial Products Program (IPP) and the increasing levy collected to support the program. FPCC continues to have concerns about the IPP, but acknowledges, through the 2013 allocation approval, that the EFC has taken some steps to start to address outstanding issues, including a per-layer service fee on the 2013 national allocation.
50. Markets, the industry and sound marketing policy and public interest considerations change over time. While 'pre prior approval' of a distribution policy may put birds into production more quickly, the question remains whether those birds would be providing the 'right' eggs in the 'right' place at the 'right' time. BCFIRB is aware there are outstanding issues related to the national allocation between EFC and FPCC. It is unclear when a new national allocation may be approved. As such, BCFIRB is reserving its decision on this question.
51. BCFIRB does not approve, at this time, the Egg Board's proposal that BCFIRB pre-approve distribution of up to 3% of quota by pro-rata from an anticipated future

national allocation. Should FFPCC approve such an allocation, BCFIRB is prepared to address an Egg Board proposal on an expedited basis, subject to that proposal being supported by a detailed progress report on the outcome(s) of the directions in this supervisory decision.

EGGS FOR PROCESSING (EFP) QUOTA

52. The Egg Farmers of Canada “Eggs for Processing” program, created in 2001, is intended to support the production of eggs for the egg processing market. Under this program BC originally received 100,000 layers of quota. EFP quota was briefly produced in BC, but EFC ordered production to cease as EFC found that the Egg Board was not meeting the intent of the program. Since that time, EFP quota has not been produced in BC. BCFIRB has directed the Egg Board several times in the past to place high priority on facilitating and finalizing arrangements for utilizing EFP quota.¹²
53. Quota is intended to be produced (supply management policy intent). Quota production also provides other socio-economic opportunities in the public interest. Eggs produced solely for the purposes of the processing market may help stabilize and potentially reduce expenses associated with the IPP. Originally intended to help manage surplus eggs for the benefit of both consumers and producers, the IPP has become an integral part of supporting a domestic egg processing industry.
54. Further delaying production of EFP quota is not sound marketing policy.
55. BCFIRB acknowledges the general producer position that their cost of production cannot be recovered for EFP eggs. BCFIRB is unable to adequately assess this position until such time as evidence regarding the cost of production is provided (transparency and evidence-based decision making). Under the current Egg Board proposal, all producers will share any potential costs associated with producing EFP quota. Given the Egg Board submission reporting a 69% increase in farm gate receipts from 2009 (\$102.9 million) to 2013 (\$149.1 million) BCFIRB currently considers that EFP quota production will not likely have a serious negative industry impact at this time. This is open to reassessment in the future.
56. BCFIRB approves the Egg Board’s proposal to distribute the 100,000 layers of EFP quota subject to signed agreements between the Egg Board, EFC and the egg processor. The Egg Board may distribute this quota either under the currently proposed terms (pro rata to all quota license holders in good standing) or other terms as it determines appropriate. The proposal is in-line with previous BCFIRB direction

¹² [2010, November 30. Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy for National and Provincial Allocations. BC Farm Industry Review Board.](#)
[2009, October 30. Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy for National and Provincial Allocations. BC Farm Industry Review Board.](#)

that the Egg Board place a high priority on facilitating and finalizing arrangements to utilize EFP quota.¹³

57. BCFIRB expects the Egg Board to move forthwith to enter into the necessary agreement(s), and to report to BCFIRB if and why a signed agreement(s) cannot be reached.

RESERVE

58. In its submission, the Egg Board notes that the current quota Reserve (35,284 layers of quota) is primarily a result of assessments taken on quota transfers. The Egg Board proposes to distribute their full quota Reserve pro-rata to licensed quota holding producers in good standing with a commitment to retain a portion of any future national allocation for new producer entry (after 2014), programs such as the Small Lot Authorization and providing for innovation and new market development. This commitment to set aside a portion of any future national allocation for these purposes is also linked to the Egg Board proposal that BCFIRB remove the current 5% transfer assessment on quota issued prior to September 1, 2005 and modify LIFO 10/10/10 to LIFO 20/6/0. The request to modify BCFIRB's quota transfer assessment directions will be addressed at a future date (BCFIRB Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy and Egg Core Review – Part II).
59. BCFIRB is prepared to consider alternative proposals to quota transfer assessments on how boards can best ensure they have quota available to meet new entrant, market responsiveness and other public policy objectives such as those set out in the Ministry of Agriculture Regulated Marketing Economic Policy (2004). Quota management involves the challenging job of balancing the fundamental intent of quota (must be produced) with the other public policy objectives (e.g., new entrants, innovation, regional economic development) quota management is expected to provide. This is not an easy task for boards and commissions.
60. One of the two original intents of BCFIRB quota transfer assessment directions was to help boards ensure they have quota available to meet new entrant, market responsiveness and other public policy objectives such as regional production. Distributing the Reserve pro-rata to current licensed quota holders in good standing with the Egg Board is not consistent with the policy intent that resulted in formation of the Reserve.

¹³ [2010, November 5. Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy. BC Farm Industry Review Board.](#)
[2009, October 30. Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy for National and Provincial Allocations. BC Farm Industry Review Board.](#)

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61. BCFIRB is not prepared at this time to change the policy behind quota transfer assessments (quota available to meet public policy objectives) in order that that portion of the Reserve be distributed pro-rata to current licensed quota holding producers. The Egg Board can use Reserve quota generated from transfer assessments, without BCFIRB prior approval, in ways that clearly meet the policy intent. This could include making a portion of the quota available under a lease-type program to producers for market innovation, regional production, specialty production or other uses in line with the policy intent.
62. BCFIRB is not prepared at this time to approve distribution of remaining Reserve quota not arising from quota transfer assessments until the Egg Board demonstrates its outstanding new entrant commitments will be met and provides to BCFIRB the amount of Reserve quota remaining and its source.
63. Setting aside a portion of the national allocation to meet public policy objectives is sound marketing policy. However, it does not seem to be sound marketing policy to base the achievement of these public policy goals on an uncertain future national allocation (i.e. uncertain in regards to both time and volume). A proposal to set aside a portion of the current national allocation (as was done in 2010) with a commitment to setting aside a portion of future allocations (and a contingency plan should future national allocations fail to transpire) could potentially be more in line with sound marketing policy.
64. Previous BCFIRB prior approval decisions (2009, 2010) noted shortcomings with respect to Egg Board reporting on reserves and their origin. BCFIRB expects the Egg Board should now be able to provide to any stakeholder, on request, a reasonable accounting of their reserves and their origin (transparency and accountability). In its submission the Egg Board committed to reporting its reserves in its annual report going forward.
65. BCFIRB does not approve the Egg Board's proposal to distribute the 35,284 layers of quota held in its Reserve pro-rata to all licensed quota holders in good standing.

NEW PRODUCER PROGRAM

66. As set out in the Ministry of Agriculture Regulated Marketing Economic Policy (2004), and confirmed as sound marketing policy under the NPMA by BCFIRB, entry of new producers in the regulated industry helps support industry sustainability and renewal in existing and new markets.
67. Stakeholder input indicates there is recognition of the importance of new producers (sound marketing policy), while also pointing out some of the associated challenges such as location of new farms in relation to grading stations as well as whether the amount of quota provided to new producers is sufficient.

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68. In 2010 BCFIRB directed the Egg Board to meet its commitment of starting a minimum of two new entrants per year starting in 2012.¹⁴ The Egg Board has started 10 new producers as part of the last two allocations (2009, 2010). BCFIRB notes that the Egg Board did not start new producers in 2013.
69. BCFIRB agrees with the Egg Board that it is important to review and update the New Producer Program. However, BCFIRB observes that other BC supply managed boards (e.g. BC Chicken Marketing Board and the BC Milk Marketing Board) review and update their new producer programs without putting the program on hold. If the Egg Board puts the New Producer Program on hold for a year while undertaking a review, it will be approximately 2017 before new producers would be contributing to the industry. This would be approximately 5 years from the previous entry of new producers (2012). This is not acceptable in terms of an effective and strategic approach to bringing new people to the industry.
70. The Egg Board lottery system appears to have provided positive results in terms of a fair, transparent and accountable process for bringing new people to the industry, including providing for specialty and regional interests. BCFIRB uses the Egg Board lottery as an example for other supply-managed boards when it comes to designing their own new entrant programs. The Egg Board should consider using the existing lottery system to regularly establish a staged entry of producers over a short number of years (as was done in the 2011 lottery).
71. Setting new producer allocation levels (e.g. 3,000 layers of quota) may not only be a matter of maximizing economies of scale for production, transportation and grading. Other supply managed boards, such as the BC Chicken Marketing Board, also use new producer programs as an opportunity to address regional and other production demands while taking into account how much quota is needed to contribute to a viable operation. This can be flexible depending on circumstances. For example, the Chicken Board recently adjusted its allocation to new and recently established producers to support the industry and associated value chain on Vancouver Island.
72. The current outstanding questions facing the New Producer Program, to BCFIRB's understanding, are the opportunity for regional production (how to reconcile with grading station locations) and the amount of quota provided to new producers. It seems reasonable that, given the Egg Board (and stakeholder) experience with new producers over many years, it is possible to review the New Producer Program in 2014 as well as to at least initiate the process to bring in new producers.
73. BCFIRB continues to encourage the Egg Board to be responsive to market needs and demands for new producers. BCFIRB also directs the Egg Board's attention to

¹⁴ [2010, November 30. Prior Approval Review of the British Columbia Egg Marketing Board 2010 New Producer Program Lottery Recommendations. BC Farm Industry Review Board.](#)

BCFIRB's 2009 and 2010 directions that the Egg Board publicly report (web site and annual report) on an annual basis its progress in implementing the New Producer Program.

74. BCFIRB does not approve the Egg Board's proposal not to start – or at this point, to select – any new entrants in 2014.

SMALL LOT AUTHORIZATION

75. The Egg Board Small Lot Authorization program fulfills BCFIRB's 2005 Specialty Review direction that 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. Alongside these sound marketing policy benefits, these types of programs encourage producers to adhere to current regulations while supporting boards in managing other vital public concerns related to biosecurity, food safety and animal welfare.
76. In the 2010 prior approval allocation decision, BCFIRB encouraged the Egg Board to reconsider the 10,000 layer limit. The Egg Board has done so with its current proposal to nearly double the layers in the program. The Egg Board notes the additional layers will be directed at serving the specialty egg demand outside of the retail chain market system and will help provide continuing regional development opportunities. The program is consistent with providing an increased ability to register production outside of the quota system thereby supporting food safety, animal welfare and environmental stewardship practices.
77. BCFIRB approves the Egg Board proposal to distribute 9,975 layers to the Small Lot Authorization Program, expanding the program from 25 permit holders (10,000 layers total) to 50 permit holders (19,975 layers total). The proposal is in line with previous BCFIRB directions to monitor industry needs and respond accordingly.

EGG FARMERS OF CANADA SERVICE FEE

78. EFC established a service fee of \$5.80/layer on the new allocation as one means to initially address cost overruns with the national IPP. Provincial egg boards were asked by EFC to enter into an agreement to pay the service fee. The Egg Board agreed to pay the service fee for now. Not all provincial egg boards have done so. It is as yet undetermined when EFC will collect the service fee. The Egg Board is determining this summer how it will manage the cost once it has more information from EFC on the service fee and its collection.
79. Under the IPP producers receive table egg price for their eggs whether the eggs go to the table egg market or the lower priced processing market. The price difference is subsidized through both a national levy (Pooled Income Fund – PIF) and a BC provincial levy. These levies represent a cost to producers, and ultimately to

consumers, as the levies are included in cost of production calculations which are used to set the price producers receive for their eggs.

80. As industrial egg processing developed in Canada, surplus eggs from natural production cycles became an important part of the supply chain for producers and processors. Between the 1990s and today, the portion of eggs produced in Canada going for industrial use increased from 5% (natural surplus) to 30%. The purpose of the surplus removal program evolved from removing surplus eggs to supplying eggs for processing. Today the program is called the Industrial Products Program (IPP).
81. National IPP volume and removal costs increased from 40 million dollars for 2.5 million boxes¹⁵ of eggs in 1982 to 171 million dollars for 7.3 million boxes in 2009 and again to 273 million dollars for 9.3 million boxes in 2013. It is estimated that nationally 48-50% of production growth resulting from an increased allocation now goes to the industrial market through the IPP and 30% of all Canadian egg production is surplus to the table egg market.
82. The current challenge for the national egg industry is to determine whether domestic egg processing should be supported and if so, how best to do so. It seems evident the IPP is not a sustainable means of supplying eggs for processing and the EFC Eggs for Processing program is not keeping pace with processor demands.
83. As noted earlier, FPCC must approve every national allocation increase. FPCC has made it clear to EFC as well as provincial egg and supervisory boards a cost-effective solution(s) to the IPP cost overruns and egg processing market must be reached.
84. While the Egg Board and BCFIRB cannot directly change a national agency's program such as the IPP, both can support reaching strategic, accountable, fair, effective, transparent and inclusive solutions that promote systemic change. This can be facilitated in part through ensuring EFP quota is produced as well as advocating for a transparent cost of production and pricing.
85. BCFIRB continues to review the service fee in the context of sound marketing policy and the governing legislation and agreements.

QUOTA LEASE AND QUOTA EXCHANGE POLICIES

86. Regularly reviewing policies and programs is important to good governance and supporting a viable, sustainable industry. BCFIRB looks forward to regular public updates on the Egg Board 2014 review of its quota leasing and quota exchange policies.

¹⁵ 1 box = 15 dozen eggs

87. BCFIRB supports the Egg Board in its proposal to review its quota lease and quota exchange policies in 2014.

EGG INDUSTRY ADVISORY COMMITTEE (EIAC) AND THE SPECIALTY EGG ADVISORY COMMITTEE (SEAC)

88. Section 36 of the Egg Scheme requires the Egg Board to establish an Egg Industry Advisory Committee, sets out the EIAC composition, its role and when the Egg Board must consult the EIAC:

- 36 (1) The board must establish an Egg Industry Advisory Committee composed of
- (a) 3 producers appointed by the board after consultation with The British Columbia Egg Producers Association,
 - (b) 3 processors appointed by the board after consultation with the British Columbia Egg Processors Council, and
 - (c) further persons appointed by the board to broaden the scope of experience available to the committee in its deliberations.
- (2) The role of the committee is to advise the board, on the request of the board or on the initiative of the committee, concerning any matter relating to the pricing or production decisions the board has made or may make.
- (3) The board must consult with the committee and consider the committee's advice before the board makes any decision relating to pricing or production.

89. BCFIRB's 2005 Specialty Review directions require the Egg Board to establish and consult with a specialty-related committee (Specialty Egg Advisory Committee).

90. Appropriate stakeholder engagement and consultation plays an important role in principles-based regulation. Consultation helps inform effective and strategic decision-making by first instance regulators such as the Egg Board and helps provide transparency. These decisions are vital in helping ensure production and pricing programs and policies follow sound marketing policy.

91. Stakeholder submissions to the Egg Board reflect general concern about Egg Board consultation practices on significant matters in the past (e.g. December 2013 Hen Housing Policy) and a desire for more engagement. They also convey a need for possible committee mandate adjustments and/or question the purpose or use of the committees. Some stakeholders were not aware the committees existed.

92. The Egg Board argues that increasing sophistication and industry complexities require a greater degree of stakeholder engagement than can be provided by the committees, that the EIAC and SEAC have served their purposes and it is time to move to a new consultation model.

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93. At the May 15, 2014 information meeting with Egg Board representatives, the representatives confirmed that the committees are essentially no longer active or effective. The committees have not really met or been consulted with for at least the last several years.
94. BCFIRB agrees with the Egg Board that as issues and industries change it can be necessary to revisit whether consultation structures and processes are still effective and strategic (including consideration of costs). It is a key part of good governance and principles-based regulation to consult. It is just as important to ensure that the consultation is conducted in a way that is effective and strategic, follows the principles of fairness, inclusiveness and transparency, and reinforces Egg Board accountability to the industry and general public. BCFIRB continues to expect the Egg Board to engage appropriately in consultation on an on-going basis, even in a shifting landscape.
95. However, BCFIRB cannot waive the Egg Scheme EIAC requirements as the Egg Board proposes.
96. BCFIRB requires the Egg Board to move forward with re-establishing and consulting with EIAC in a very timely fashion.
97. Once the EIAC is re-established, the Egg Board may, at its discretion, submit a proposal to BCFIRB to rescind the Specialty Egg Advisory Committee (SEAC). The proposal must clearly demonstrate how the Egg Scheme requirements will continue to be met, alongside how the intent of the SEAC, as outlined in the 2005 Specialty Review, will be met under any alternative model. Under the Egg Scheme, any issue related to production and pricing (including specialty) must be addressed through EIAC.
98. BCFIRB expects, as a matter of sound governance, that the Egg Board will meet the commitment made in its submission to report annually on stakeholder engagement and incorporate stakeholder engagement in to its Governance Manual.
99. The Egg Scheme places a statutory obligation on the Egg Board to establish and consult with the EIAC. Pending any future change to the Egg Scheme, BCFIRB requires the Egg Board to implement its alternative proposal forthwith to re-establish and consult with the EIAC. There is no provision in the Egg Scheme that allows BCFIRB to waive this requirement as the Egg Board requests.

CONCLUSION

2013 Egg Farmers of Canada (EFC) Allocation

100. BCFIRB approves the Egg Board proposal to distribute the 67,890 layers of quota pro-rata to licensed quota holders in good standing once the following condition is satisfied:
- a) The Egg Board demonstrates to BCFIRB's satisfaction that the process for at least four new producers (minimum 3,000 layers of quota pending further review) to enter the egg industry will be commenced in 2014 in order to meet the standing new entrant requirements for both 2013 and 2014.

Future Egg Farmers of Canada Allocation

101. BCFIRB does not approve, at this time, the Egg Board's proposal that BCFIRB pre-approve distribution of up to 3% of quota by pro-rata from an anticipated future national allocation. Should Farm Products Council of Canada (FPCC) approve such an allocation, BCFIRB is prepared to address an Egg Board proposal on an expedited basis, subject to that proposal being supported by a detailed progress report on the outcome(s) of the directions in this supervisory decision.

Eggs for Processing (EFP) Quota

102. BCFIRB approves the Egg Board's proposal to distribute the 100,000 layers of EFP quota subject to signed agreements between the Egg Board, EFC and the egg processor. The Egg Board may distribute this quota either under the currently proposed terms (pro rata to all quota license holders in good standing) or other terms as it determines appropriate. The proposal is in-line with previous BCFIRB direction that the Egg Board place a high priority on facilitating and finalizing arrangements to utilize EFP quota.¹⁶
103. BCFIRB expects the Egg Board to move forthwith to enter into the necessary agreement(s), and to report to BCFIRB if and why a signed agreement(s) cannot be reached.

Reserve

104. BCFIRB does not approve the Egg Board's proposal to distribute the 35,284 layers of quota held in its Reserve pro-rata to all licensed quota holders in good standing.

¹⁶ [2010, November 5. Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy. BC Farm Industry Review Board.](#)
[2009, October 30. Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy for National and Provincial Allocations. BC Farm Industry Review Board.](#)

105. The Egg Board must use the Reserve quota generated from transfer assessments to meet the policy objectives established in the 2005 Specialty Review¹⁷ – and confirmed in the 2009 and 2010 prior approval allocation decisions – including supporting industry renewal through new entrants, and being positioned to respond to changing markets and opportunities for innovation.
106. Before approving distribution of any remaining Reserve, BCFIRB requires the Egg Board to meet the condition set out in 6(a) and submit to BCFIRB the amount of quota remaining and its source.
107. BCFIRB expects the Egg Board will meet the commitment made in its submission to report reserves in its annual report going forward.

New Producer Program

108. BCFIRB does not approve the Egg Board’s proposal not to start – or at this point, to select – any new entrants in 2014. The Egg Board was directed in 2010 to meet its commitment of starting a minimum of two new entrants a year, starting in 2012.¹⁸ The Egg Board has had ample time since 2010 to determine how best to meet this direction while continuing to build – and modify as required – an effective and strategic New Producer Program.
109. BCFIRB expects that the Egg Board will now adhere to its commitment of starting a minimum of two new producers every year. The Egg Board can exercise its discretion to determine how this direction, in conjunction with fulfilling other public policy objectives, is met and it must be prepared to publicly explain its reasons to stakeholders and BCFIRB. BCFIRB expects the Egg Board to be responsive to market needs and demands for new producers.¹⁹
110. Unless substantive reasons are provided to BCFIRB, the New Producer Program should continue to adhere to BCFIRB’s 2010 direction²⁰ to give priority for at least one new entrant allocation to Small Lot Authorization permit holders and to give priority for at least one new entrant allocation to applicants proposing to produce eggs in a region other than the Lower Mainland.
111. BCFIRB supports the Egg Board in its proposal to evaluate the New Producer Program in 2014.

¹⁷ [2005, September 1. Specialty Market and New Entrant Submissions: Policy, Analysis, Principles and Directions.](#)

¹⁸ [2010, November 30. Prior Approval Review of the British Columbia Egg Marketing Board 2010 New Producer Program Lottery Recommendations. BC Farm Industry Review Board.](#)

¹⁹ For example, the Egg Board may determine the need to start 4 new entrants in one year and not start two new entrants in the following year.

²⁰ [Ibid.](#)

112. As part of the New Producer Program review, BCFIRB recommends the Egg Board, on an ongoing basis, considers using the existing lottery system to establish staged entry over a number of years (e.g. as the Egg Board did with the 2011 lottery).

Small Lot Authorization Program

113. BCFIRB approves the Egg Board proposal to distribute 9,975 layers to the Small Lot Authorization Program, expanding the program from 25 permit holders (10,000 layers total) to 50 permit holders (19,975 layers total). The proposal is in line with previous BCFIRB directions to monitor industry needs and respond accordingly.²¹

Egg Farmers of Canada (EFC) Service Fee

114. BCFIRB acknowledges that the Egg Board has agreed for now to pay the EFC \$5.80 per layer service fee on the 2013 allocation. BCFIRB continues to review the service fee in the context of sound marketing policy and the governing legislation and agreements.

Quota Lease and Quota Exchange Policies

115. BCFIRB supports the Egg Board in its proposal to review its quota lease and quota exchange policies in 2014.

Egg Industry Advisory Committee (EIAC) and the Specialty Egg Advisory Committee (SEAC)

116. Pending any future change to the Egg Scheme, BCFIRB requires the Egg Board to implement its alternative proposal forthwith to re-establish and consult with the EIAC. The Egg Scheme requires the Egg Board to establish and consult with the EIAC. There is no provision in the Egg Scheme that allows BCFIRB to waive this requirement as the Egg Board requests.
117. BCFIRB expects the Egg Board to move forward with re-establishing and consulting with EIAC in a timely fashion.
118. Once the EIAC is in operation, the Egg Board may, at its discretion, submit a proposal to BCFIRB to rescind the Specialty Egg Advisory Committee (SEAC). The proposal must clearly demonstrate how the Egg Scheme requirements will continue to be met, alongside how the intent of SEAC, as outlined in the 2005 Specialty Review, will be met under any alternative model.

²¹ [2009, October 30. Prior Approval Review of the British Columbia Egg Marketing Board Quota Distribution Policy for National and Provincial Allocations. BC Farm Industry Review Board.](#)

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BCFIRB expects the Egg Board will meet the commitment made in its submission to incorporate a stakeholder engagement section in its Governance Manual and report annually on stakeholder engagement activities and outcomes. BCFIRB expects the Egg Board will undertake these actions starting no later than 2014.

Dated at Victoria, British Columbia, this 28th day of July 2014.



John Les
Chair



Ron Bertrand
Vice Chair



Andreas Dolberg
Member



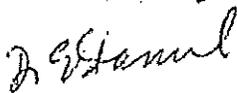
Diane Fillmore
Member



Carrie Manarin
Member



Corey Van't Haaff
Member



Daphne Stancil
Member