

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
CONSOLIDATED ORDERS

March 27, 2017

DECISION SUMMARY

1. The issue before the BC Farm Industry Review Board (BCFIRB) is prior approval of the BC Egg Marketing Board (Egg Board) Consolidated Order proposed amendments.
2. BCFIRB prior approves the proposed changes to the following sections of the Egg Board Consolidated Order:
 - a) Part III - Issuance of Quota;
 - b) Part IV - New Producer Program Rules;
 - c) Part V sections V 2(5) and V 2(6) only – specified sections on Transfer of Layer Quota clarifying restrictions on quota sales and purchase;
 - d) Part VI – Provincial Quota Exchange Rules – on the condition that the Egg Board include an assessment of quota movement between regions in its final assessment and submission to BCFIRB, before BCFIRB evaluates the final Quota Exchange model.
3. BCFIRB does not prior approve any other proposed changes to the Egg Board Consolidated Order amendments, and specifically notes that the changes proposed to Transfer of Layer Quota Part V - V1(3)(a), V3(1), V3(5), V5(5)(c) – will need to be brought forward to BCFIRB by the Egg Board as part of the 2016 Quota Assessment Tools Evaluation project currently underway:
 - a) Removal of the requirement that quota remain attached to the farm where there is an assessment exempt transfer of quota between siblings; and,
 - b) Changing Last In First Out (LIFO) 10/10/10 to LIFO 10/10/5.
4. BCFIRB directs that the Specialty Egg Advisory Committee (SEAC) not be removed from the Consolidated Order at this time. Should the Egg Board wish to re-introduce the issue of removal of the SEAC at some future date, a report is to be provided to BCFIRB which fully sets out how the intent of SEAC will continue to be met under an alternative model.

INTRODUCTION

5. In British Columbia, the production and marketing of eggs is regulated under the *Natural Products Marketing (BC) Act (NPMA)* and the Egg Scheme regulations. The Egg Board, formed under the Egg Scheme, is the first instance regulator of the production and marketing of eggs in BC.

6. BCFIRB is responsible for the general supervision of all marketing boards and commissions under the *NPMA*, including the Egg Board. 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. BCFIRB has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or as required by BCFIRB.
7. On January 30, 2017 the Egg Board submitted its proposed Consolidated Order amendments to BCFIRB. The amendments resulted from a full review of the Consolidated Order, supported by three Egg Board processes over several years:
 - a) Core Review (2014)
 - b) Quota Exchange Review (2015)
 - c) Quota Management Tools Review (2016)
8. Under the Egg Scheme, BCFIRB is required to prior approve any amendments involving the terms and conditions upon which quota shall be issued or transferred. BCFIRB has discretion to determine whether prior approval of any other amendments is required in the interest of sound marketing policy.

ISSUE

9. The issue before BCFIRB is prior approval of the Egg Board Consolidated Order amendments.

DECISION PROCESS

10. BCFIRB reviewed the Egg Board “Consolidated Orders Review 2016 – Submission for Approval”, and the draft “British Columbia Egg Marketing Board Order of January 15, 2017”. BCFIRB met with Egg Board representatives on March 8, 2017 for additional information and also reviewed previous BCFIRB expectations and directions alongside consideration of current supervisory processes.
11. In making this decision, BCFIRB considered its role in ensuring a principled approach¹ to industry outcomes in the interest of sound marketing policy.

ANALYSIS

12. In its January 2017 submission, the Egg Board outlined the rationale, focus and consultation undertaken for its multiple review processes that culminated in the proposed changes to its Consolidated Order. It was difficult for BCFIRB to discern the overall quality of consultation and we note that key documents tended to be found at different sections of the Egg Board’s web site, and consolidation of the information would make it easier and more accessible for readers to find the

¹SAFETI – Strategic, Accountable, Fair, Effective, Transparent, Inclusive

information. However, overall, it appears the Egg Board generally conducted a fair and transparent process in reaching its proposed amendments.

BCFIRB prior approval under the Egg Scheme

13. BCFIRB considered the amendments to the following Consolidated Order sections:
 - a) Issuance of Layer Quota
 - b) New Producer Program (NPP) Rules
 - c) Transfer of Layer Quota
 - d) Provincial Quota Exchange
14. ***Issuance of Layer Quota.*** The Egg Board is proposing various changes to Part III of its Consolidated Order – Issuance of Layer Quota. Under the Egg Scheme, BCFIRB is required to prior approve any amendments involving the terms and conditions upon which quota shall be issued or transferred.
15. In summary, the proposed amendments support timely production of new quota; help ensure accountability to the Consolidated Order and Egg Scheme; increase clarity and consistency with other areas of the Order; support timely layer placement and enforcement of Egg Farmers of Canada housing policy; and help ensure producers are actively engaged in production.
16. BCFIRB prior approves the proposed changes to Part III of the Egg Board's Consolidated Order as they are in accord with sound marketing policy and promote active engagement by registered producers.
17. ***New Producer Program Rules.*** The current NPP Rules in Part IV of the Egg Board Consolidated Order were prior approved by BCFIRB on March 1, 2016², following a full review of the NPP by the Egg Board. In that decision, BCFIRB observed that clear guidance for applicants and stakeholders is an important component of a fair process, as well as being strategic and accountable. BCFIRB also recognized the importance to sound marketing policy of the NPP Rules taking into account new and changing market demands and providing flexibility to support innovative production. Therefore, BCFIRB prior approves the proposed changes to Part IV as these changes are in accord with accountability; fair process and sound marketing policy.
18. ***Transfer of Layer Quota.*** The Egg Board is proposing several changes to the terms and conditions of Part V of its Consolidated Order – Transfer of Layer Quota. Under the Egg Scheme, BCFIRB is required to prior approve any amendments involving the terms and conditions upon which quota shall be issued or transferred.

² 2016 March 1. BCFIRB. [In the Matter of the Natural Products Marketing \(BC\) Act and the Prior Approval of the British Columbia Egg Marketing Board New Producer Program 2016.](#)

19. BCFIRB prior approves the proposed changes to sections V2(5) and V2(6) as they clarify and ensure the Order is aligned with its policy intent regarding restrictions on the sales and purchase of quota.
20. The Egg Board is proposing changes to sections V2(7) and V2(9) to the condition under which quota can be transferred from one region to another (Part V2(7) and 2(9)). These proposed changes are addressed and discussed under “Provincial Quota Exchange”, so are not addressed in this section on Transfer of Layer Quota.
21. All other proposed changes to Part V of the Egg Board Consolidated Order – Transfer of Layer Quota, except for those sections in paragraphs 19 and 20 above, are not prior approved by BCFIRB.
 - a) On January 26, 2007, BCFIRB allowed for exempt transfers between siblings on the conditions that the exemption be limited to reasons related to succession planning and that the quota transferred is, and will remain, attached to the “family farm” in question. The Egg Board is proposing to remove the condition that the transferred quota remain attached to the “family farm”. BCFIRB has chosen not to approve the current proposed change at this time given the 2016 Quota Assessment Tools Evaluation project³ is currently in progress, where this matter is best considered.
 - b) In reformatting the LIFO 10/10/10 transfer assessment table, the Egg Board proposed changing the final 10% transfer assessment on quota held more than 10 years to 5%. BCFIRB does not approve this proposed change given the 2016 Quota Assessment Tools Evaluation project is in progress, where this is best considered.
22. ***Provincial Quota Exchange.*** BCFIRB prior approved, with conditions, the current pilot Quota Exchange on December 2, 2015⁴. The Egg Board is proposing changes to the pilot Exchange. Following several more pilot Exchange cycles, the Egg Board will do a final assessment and request BCFIRB prior approval for the final Quota Exchange model (as per BCFIRB’s December 2015 decision). The Egg Board changes to the pilot proposed at this time focus on adding clarity, ensuring quota is produced, supporting new entry and managing risk of quota withdrawal from the Exchange once it is offered for sale. BCFIRB approves these changes as they accord with good governance and support industry entry.
23. An Egg Board proposed change addresses the movement of quota between regions. While BCFIRB is prepared to approve this for the pilot Quota Exchange, the Egg Board must include an assessment of quota movement between regions in its final assessment and submission to BCFIRB before BCFIRB will consider approving the final Quota Exchange model.

³ 2016 November 22. BCFIRB. [Quota Assessment Tools Evaluation.](#)

⁴ 2015 December 2. BCFIRB. [Prior Approval Decision – BC Egg Marketing Board Quota Exchange Reform.](#)

BCFIRB prior approval requirements established under NPMA supervisory authority

24. The Egg Board proposes removing the SEAC from the Consolidated Order on the basis that the Egg Industry Advisory Committee (EIAC) and the Production Management Committee specialty producer members provide a sufficient voice.
25. In its July 28, 2014 quota management decision⁵, BCFIRB stated:

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.
26. No report has been submitted to BCFIRB, as required by the BCFIRB July 2014 decision, beyond the following excerpt from the Egg Board January 30 submission:

This Part has been removed as the Egg Industry Advisory Committee and the Production Management Committee include specialty producers therefore specialty producers do have a voice within the industry.
27. BCFIRB recognizes the significant progress the Egg Board has made in developing and filling specialty markets, making BC a leader in this area. That said, BCFIRB directs that the SEAC not be removed from the Consolidated Order at this time.

DECISION

28. BCFIRB prior approves the proposed changes to the following sections of the Egg Board Consolidated Order:
 - a) Part III - Issuance of Quota;
 - b) Part IV - New Producer Program Rules;
 - c) Part V sections V 2(5) and V 2(6) only – specified sections on Transfer of Layer Quota clarifying restrictions on quota sales and purchase;
 - d) Part VI – Provincial Quota Exchange Rules – on the condition that the Egg Board include an assessment of quota movement between regions in its final assessment and submission to BCFIRB, before BCFIRB evaluates the final Quota Exchange model.
29. BCFIRB does not prior approve any other proposed changes to the Egg Board Consolidated Order amendments, and specifically notes that the changes proposed to Transfer of Layer Quota Part V - V1(3)(a), V3(1), V3(5), V5(5)(c) – will need to be

⁵ 2014 July 28. BCFIRB. [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.](#)

British Columbia Farm Industry Review Board
Prior Approval Review of the British Columbia Egg Marketing Board Consolidated Orders
March 27, 2017

brought forward to BCFIRB by the Egg Board as part of the 2016 Quota Assessment Tools Evaluation project currently underway:

- a) Removal of the requirement that quota remain attached to the farm where there is an assessment exempt transfer of quota between siblings; and,
 - b) Changing LIFO 10/10/10 to LIFO 10/10/5.
30. BCFIRB directs that the SEAC not be removed from the Consolidated Order at this time. Should the Egg Board wish to re-introduce the issue of removal of the SEAC at some future date, a report is to be provided to BCFIRB which fully sets out how the intent of SEAC will continue to be met under an alternative model.

Dated at Victoria, British Columbia, this 27th day of March 2017



John Les
Chair



Corey Van't Haaff
Vice Chair



Daphne Stancil
Member



Al Sakalauskas
Member