

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
QUOTA DISTRIBUTION POLICY, MULTI ALLOCATION POLICY AND PROCEDURE,
TEMPORARY ALLOTMENT PROGRAM, NEW PRODUCER PROGRAM, AND QUOTA
RESERVE POLICY

July 3, 2019

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).
2. The BC Egg Marketing Board (Egg Board), formed under the Egg Scheme, is the first instance regulator of the production and marketing of eggs in BC.
3. The BC Farm Industry Review Board (BCFIRB) is responsible for the general supervision of all marketing boards and commissions under the *NPMA*, including the Egg Board, with exclusive jurisdiction to inquire into, hear and determine all matters and questions of fact, law and discretion arising or required to be determined by BCFIRB.
4. Section 37(c) of the Egg Scheme requires the Egg Board to obtain BCFIRB prior approval to vary quotas the Egg Board has issued to producers, and the terms and conditions upon which quota shall be issued or transferred.
5. On December 11, 2018 the Farm Products Council of Canada (FPCC) approved the Egg Farmers of Canada's (EFC) request to increase the national production (allocation) by 1,443,475 layers for a total of 27,432,857 layers. The national allocation increase triggered the Egg Board to make this request for BCFIRB's prior approval on its 2019 quota distribution policy, multi allocation distribution policy and procedure, Temporary Allotment Program (TAP) and Quota Reserve Policy and Procedure. Concurrently the Egg Board submitted its revised New Producer Program (NPP) rules following its 2018 review.
6. With the allocation increase, BC will have a total of over 3 million layers, and remains the third largest egg producing province, after Ontario and Quebec. In comparison, the average flock size in several US states is three to four times more than the total of the last eight BC allocation increases (e.g., the average flock size in Iowa is 1 million layers).
7. Following several years of no market growth, this is the eighth (8th) national growth allocation over the last six (6) years. BC's share of the national allocation increases since 2014 and its distribution are as follows:
 - 67,890 layers – approved by BCFIRB July 28, 2014 [pro rata]
 - 15,955 layers – approved by BCFIRB September 2, 2014 [pro rata]
 - 44,475 layers – approved by BCFIRB March 16, 2015 [pro rata]
 - 83,243 layers – approved by BCFIRB July 17, 2015 [82% pro rata; 18% NPP]

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82,983 layers – approved by BCFIRB March 9, 2016 [90% pro rata; 10% NPP¹]
99,971 layers – approved by BCFIRB March 27, 2017 [90% pro rata; 10% NPP]
108,741 layers – approved by BCFIRB August 28, 2018 [70% pro rata; 30% NPP
and other public policy objectives]
202,110 layers – pending BCFIRB approval
705,368 additional layers 2014 to 2019

ISSUE

8. The issues before BCFIRB are prior approval of the BC Egg Marketing Boards':
 - a) 2019 quota distribution policy;
 - b) Multi-allocation distribution policy and procedure;²
 - c) Revised New Producer Program;
 - d) Revised Temporary Allotment Program; and,
 - e) Quota Reserve Policy and Procedure,

submitted to BCFIRB on May 27, 2019.

DECISION PROCESS

9. BCFIRB reviewed the Egg Board May 27, 2019 submission. BCFIRB then met with Egg Board representatives on June 13, 2019 for an overview of the Egg Board submission and to discuss outstanding questions.
10. In making this decision, BCFIRB considered its role in ensuring a principled approach to quota management outcomes in the interest of sound marketing policy.

¹ BCFIRB prior approved on the basis that the Egg Board first determine the percentage of the allocation that was to be set aside for the New Producer Program. February 5, 2016 Egg Board minutes show the Egg Board earmarked 10% for the NPP.

² Policy and procedure Egg Board would use to distribute quota from the next two national allocations.

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11. BCFIRB used the following general supervisory process and outcomes framework to guide its decision making. BCFIRB has consistently communicated and used this framework for egg allocation and New Producer Program prior approval decisions starting with its July 28, 2014 allocation prior approval decision:³
- 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 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?
12. BCFIRB also reviewed its March 1, 2016 New Producer Program prior approval decision⁴, its March 27, 2017 allocation prior approval decision⁵ and its August 28, 2018 allocation prior approval decision⁶ to determine any outstanding requirements or obligations on the Egg Board.

³ 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.](#)

⁴ 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.](#)

⁵ 2017 March 27. BCFIRB. [In the Matter of the *Natural Products Marketing \(BC\) Act* and the Prior Approval of the British Columbia Egg Marketing Board 2017 Quota Distribution Policy.](#)

⁶ 2018 August 28. BCFIRB. [In the Matter of the *Natural Products Marketing \(BC\) Act* and the Prior Approval of the British Columbia Egg Marketing Board 2018 Quota Distribution Policy.](#)

13. The allocation requirements or obligations included:
- a) Detailing the policy distribution options considered and sound marketing policy rationale for recommendations;
 - b) Reporting on changing economic and market circumstances;
 - c) Reporting on stakeholder input;
 - d) Reporting on results of Egg Industry Advisory Committee (EIAC) consultation results;
 - e) Showing how recommendations will increase industry efficiencies through the growth of new entrants, small producers and opportunities to support growing markets;
 - f) Providing recommendations that reflect consideration of bringing in additional new entrants/supporting early entry;
 - g) Providing recommendations reflecting support of egg farm development across the province;
 - h) Providing recommendations reflecting growth opportunities for small farms.

ANALYSIS

14. The Egg Board is the only BC commodity board where regulation requires BCFIRB prior approval to vary quotas issued to producers, and the terms and conditions upon which quota shall be issued or transferred. For approximately 18 years BCFIRB has worked closely with the Egg Board to establish sound processes related to quota distribution decisions.
15. Overall, the Egg Board's process met BCFIRB's process expectations set out above in paragraph 11. The process was inclusive, transparent and reflected an appropriate depth given the subject. Stakeholders were fully consulted. The Egg Industry Advisory Committee, Production Management Committee, and Egg Producers Association had the opportunity to review and discuss the draft proposals. Online surveys reached producers, graders, processors, allied trades, and the public. Additional in-person meetings with producers took place. BCFIRB is satisfied that the Egg Board's process met its SAFETI⁷ expectations.
16. Overall the Egg Board submission generally fulfilled BCFIRB's outcomes expectation framework reflected in paragraphs 11 to 13. It substantially remedied the

⁷ Strategic Accountable Fair Effective Transparent Inclusive

previously identified information gaps, consultation and rationale concerns BCFIRB has had with previous prior approval submissions.

17. BCFIRB notes that in the absence of a vision and related goals and objectives for industry structure it remains challenging for BCFIRB to effectively assess how quota distribution today will help contribute to those outcomes particularly when considering a multi-allocation policy and procedure recommendation. Consistent use of SAFETI and annual reports through the Public Accountability and Reporting Project may assist with establishing and assessing how well quota distribution is supporting development of a strategic and effective industry structure.
18. BCFIRB had outstanding questions regarding the submission. For example, the amount of quota to be distributed through equal distribution; the rationale and potential checks and balances for the multi-allocation policy and procedure; the maximum amount of quota for new entrants (individual and annually); and the effectiveness of quota made temporarily available to new entrants through a one time, 30 day limited opportunity under the TAP. These and related questions were, for the most part, discussed to BCFIRB's satisfaction at the June 13 meeting.
19. The Egg Board did not appear to consider supporting early entry⁸ of New Producer Program quota recipients in its submission nor at the June 13 meeting. The Egg Board did consider bringing in more than 2 entrants in a given year so long as the amount of quota distributed generally reflected distribution of 30,000 quota units over 5 years (starting in 2020 or spring 2021), with a guideline of 6,000 quota units per year.

2019 Allocation distribution recommendation

20. BCFIRB is satisfied that the Egg Board met BCFIRB's August 28, 2018 criteria for consideration of its allocation recommendation. BCFIRB had stated in the August 2018 decision it was not prepared to consider a future allocation recommendation until the Egg Board incorporated consideration of "its framework of proposed/new updated programs" in its allocation recommendation, including consideration of new entrants, regional development and small farm growth.
21. Overall the Egg Board looked at the current and future market conditions and challenges (including required changes to layer housing and potential challenges from US egg imports), along with new entrant, small farm growth, and regional distribution as per BCFIRB's previous directions and Ministry of Agriculture policy. It took an integrated approach to the allocation – using quota management tools such

⁸ Successful New Producer Program (NPP) entrants are placed on a schedule as to when they are to start producing. After drawing 10 successful entrants, the Egg Board reports it will start two of these new entrants a year over five years. "Early entry" refers to the Egg Board allowing successful NPP entrants to start earlier than scheduled.

as quota distribution along with the longer-term New Entrant Program, Temporary Allotment Program and Quota Reserve Policy to help contribute to its five major industry priorities. While there are some questions remaining about some of the rationale, the Egg Board did provide a SAFETI⁹ analysis as part of its recommendation.

22. BCFIRB agrees that using equal distribution of a portion of the growth quota to incentivize the conversion of layer housing as well as support growth of small farms is sound marketing policy. BCFIRB also agrees that distributing the remaining growth allocation to active producers in good standing also helps ensure the province is meeting its production obligations. BCFIRB's position on the Temporary Allocation Program is covered in paragraph's 30 to 36.

Multi allocation distribution policy and procedure

23. The Egg Board recommended that BCFIRB prior approve a policy and procedure for distributing two future national growth allocations. The policy and procedure reflects the same policy and procedure for which approval is sought for 2019 (starting at paragraph 20 above). That is, the Egg Board would distribute the next two national allocations as follows: a defined portion of growth used for equal distribution, followed by setting aside any quota needed for the Temporary Allotment Program and the remainder to be distributed pro rata to active producers in good standing.
24. The Egg Board indicated at the June 13 meeting that should BCFIRB prior approve the multi-allocation policy and procedure, the Egg Board would provide BCFIRB with a report at the time EFC issues notification of a possible national allocation increase. If there is no forthcoming national allocation, there would be no report to BCFIRB.
25. The Egg Board report would assess the market and economic conditions, including current quota uptake and distribution and either confirm that the allocation policy and procedure remained sound marketing policy, or vary the allocation distribution policy based on the circumstances. BCFIRB would then have the opportunity to agree with the Egg Board's assessment or make another supervisory direction.
26. BCFIRB agrees with the Egg Board that it is sound marketing policy to support longer range Egg Board industry planning through a multi-allocation policy and procedure approach. This approach is appropriate given the Egg Board's forecast of steady market growth and that this approach may support putting new layers into production in a more timely way. Having a standard allocation policy and procedure in place is also transparent.

⁹ Strategic Accountable Fair Effective Transparent Inclusive

27. On the other hand, BCFIRB must also consider the Egg Board's history of a lack of full engagement with new entrant and other public policy programming (e.g. regional development). The current submission is a positive indication that the Egg Board may now be shifting its outlook.
28. While the current submission is a positive indication of full engagement, given this long history, BCFIRB feels specific accountability measures need to be in place if it is to prior approve the multi allocation policy and procedure at this time. In any Egg Board report provided to BCFIRB when EFC forecasts a national allocation increase, the Egg Board will include the following:
- a) Quantitative information¹⁰ that demonstrates how, and to what degree, the current 2019 allocation policy has contributed to achieving the five major priorities that the Egg Board listed in its May 27, 2019 submission, along with demonstrating how future allocation policies are forecast to continue to contribute to their achievement:
 - i. Promote animal welfare;
 - ii. Support growth of small farms and new entrants;
 - iii. Support regional growth;
 - iv. Meet emerging market needs; and,
 - v. Encourage producers to move out of conventional production systems.¹¹
29. The Egg Board contended that the multi-allocation policy could reduce the time between a national allocation being approved and eggs being produced. As such, any allocation report to BCFIRB should also include:
- b) An updated table showing the date of the EFC national allocation proposal; the date of Farm Products Council of Canada approval; the date quota is distributed by the Egg Board; when producers apply for chick placement permits and status of quota utilization.

Temporary Allotment Program (TAP)

30. The Egg Board is recommending a complete replacement of its current TAP.

¹⁰ Data and statistics

¹¹ Due to consumer pressure, egg producers across Canada are transitioning on a timeline away from conventional layer housing to cage free or enriched housing systems.

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31. Presently any producer can apply for a temporary allotment of quota from the Egg Board upon written application (administrative fee and regular levies apply). The Egg Board recommends that all new entrants¹² have priority for a 30 day one time opportunity through “Pool A” to apply for up to 1,000 additional quota units for a maximum of five years. An administrative fee¹³ and regular levies would apply as they do under the current TAP. Any quota remaining in the TAP reserve would be made available to all other producers through “Pool B” on an annual basis for an administrative fee and applicable levies.
32. According to the Egg Board, the revised TAP is intended to:
 - a) assist new entrants in expanding their operations while maximizing barn efficiency; and,
 - b) ensure that the quota is used as effectively as possible with a 100% utilization.
33. BCFIRB does have some concerns about new entrants making successful business plans on the basis of temporary access to the additional 1,000 quota units, and then potentially finding no or limited amount of quota available from other producers. In the June 13 meeting, the Egg Board reported that if annual national growth allocations continue, new entrants would receive sufficient quota through the equal distribution and pro-rata formulas to increase their overall quota holdings to just over 4,000. As such, new entrants have some assurance that if they accept the temporary access opportunity to 1,000 (or less) quota units, over time they will be receiving an equivalent amount of “permanent” quota, reducing concerns about quota availability from other producers through the Quota Exchange.
34. Given there is no guarantee of the number and volume of national allocations in the future, particularly given the expected increase in US egg imports over the next one to two years, BCFIRB asks the Egg Board assess the effectiveness of its revised TAP annually.
35. A second key concern for BCFIRB is the one time, 30 day limited offer for new entrants to access the 1,000 quota units through TAP. The Egg Board affirmed new entrants would have at a minimum of several months’ notice for planning purposes. If a new entrant chooses not to participate through “Pool A”, which gives new entrants priority access to temporary quota, they remain eligible to apply for temporary quota through “Pool B”.

¹² New Producer Program entrants and those who have bought quota to enter the industry since 2009.

¹³ Recommended TAP Administrative fee \$1.00 per month/layer. All proceeds would be used to offset the costs of the Egg for Processing Program.

36. Overall the revised TAP supports new entrant growth and efficiency while continuing with the Egg Board's focus on making sure quota held in reserve is produced.

New Producer Program (NPP)

37. Following a comprehensive review process in 2018, the Egg Board is recommending changes to how much quota is available and how recipients are selected; and, changes to administrative rules regarding the selection process.
38. The Egg Board rationale for why 3,000 units of quota is sufficient as a maximum starting point for New Producer Program (NPP) entrants (versus 4,000 or another amount) was described in its written submission and discussed at the June 13 meeting. BCFIRB recognizes the Egg Board's position on the maximum amount of quota granted to new entrants and reiterates its past directions that the Egg Board is to evaluate this number on an on-going basis to ensure it continues to reflect sound marketing policy.
39. BCFIRB also questioned the Egg Board's "cap" of 6,000 total quota units per year for the NPP. At the June meeting, the Egg Board indicated that the cap is in place as a guideline for the Egg Board and NPP quota issued in any given year may be more than 6,000 quota units based on circumstances.
40. As set out in the 2005 Specialty Review, BCFIRB acknowledges there are challenges with determining the "right" amount of NPP quota. This includes finding a balance between providing for a number of new entrants, providing a meaningful incentive amount, ensuring the operation has a chance to be viable, and respecting established producers. That said, increasing collection of industry data and the potential for economic modeling allows for continued, effective assessment.
41. BCFIRB agrees with the Egg Board that providing the opportunity for applicants to select between 400 and 3,000 quota units based on a business plan is effective and strategic. BCFIRB was concerned about the ability of applicants to reasonably assess market demand and include it as part of their business planning. BCFIRB is satisfied by examples provided by the Egg Board on June 13, such as a small lot permit producer who has received requests for additional eggs from sales outlets. The Egg Board also stated that it would accept a letter(s) from local restaurants/food markets as evidence of market demand. Applicants would also have the right to appeal to BCFIRB should their market needs assessment be determined to be insufficient by the Egg Board.

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42. BCFIRB agrees the Egg Board may exercise discretion to directly select new entrants based on demonstrated market need within a region. Applicants would be required to pass the same application process as those participating in scheduled NPP draws. BCFIRB notes that should there be several persons in a position to meet the identified regional demand the Egg Board will need to consider what would constitute a procedurally fair selection process.
43. Going forward, BCFIRB encourages the Egg Board to continue with its province-wide market needs assessment for future use as context and consideration when assessing NPP applications.
44. BCFIRB supports requiring applicants to demonstrate market needs (see paragraph 41 above), and changing the scoring of applications to put more emphasis on business planning – if the goal is long-term successful farmers, a basic understanding of market needs and a good business plan is a sound starting point. BCFIRB also supports the addition of a producer-vendor to the NPP Review Committee as a strategic approach to capturing skills and knowledge important for regional production success.
45. Moving administration of the NPP from a third party contractor to Egg Board staff is strategic from a financial perspective. BCFIRB is satisfied sufficient checks and balances remain (e.g. NPP Review Committee, third party draw) in the selection process to mitigate risk of conflict of interest. Changing the timing of the performance deposit is responsive to a previously identified issue with money being held for an undue period of time should there be an appeal of the NPP process outcome to BCFIRB. BCFIRB is satisfied with the Egg Board expanding its requirement that applicants cannot hold or have held quota at any time any legal or beneficial interest in quota in any supply managed commodity in Canada as being in line with the intent of the NPP.
46. The proposed application fee increase from \$250 to \$750 does concern BCFIRB. This is a substantive increase and not in-line with the lower application fees charged by the other BC supply managed commodity boards. It accepts the Egg Board's rationale about reducing duplicate spousal applications and helping offset program administration costs and will revisit this issue after seeing how the fee change impacts application numbers for the next NPP draw.

47. BCFIRB is disappointed that the Egg Board did not appear to consider starting some NPP producers earlier rather than adhering to the current approach of having “two new entrants per year” given the substantive allocation received by BC (approximately 6% growth). BCFIRB is not prepared to hold up its prior approval on this point, but does expect the Egg Board to give this item serious consideration if another national allocation is made. BCFIRB does recognize that applicants having the option of selecting a variable amount of quota may result in more than 2 new entrants a year entering the system.

Quota Reserve Policy and Procedures

48. The Egg Board has developed a formal Quota Reserve Policy and Procedure. Quota in the Reserve will come from quota transfers, and allocation set-asides. The Quota Reserve Policy sets out how much quota must be held to service the NPP and TAP.
49. In its February 2, 2018 Quota Assessment Tools Supervisory Review decision¹⁴ BCFIRB affirmed that boards are to have some form of mechanism in place to ensure quota is available to the commodity board for new entrants and other policy program needs (market demands/public interest) on an on-going basis.
50. BCFIRB is satisfied that the Egg Board Quota Reserve Policy and Procedure helps ensure that quota is available to the board for new entrants and other policy program needs while having mechanisms in place (TAP) to help ensure the quota being held in reserve is produced.

¹⁴ 2018 February 2. BCFIRB. [In the Matter of the Natural Products Marketing \(BC\) Act and Quota Assessment Tools Supervisory Review.](#)

DECISION

51. BCFIRB is satisfied the Egg Board's 2019 allocation distribution recommendation accords with sound marketing policy.
52. BCFIRB is satisfied the multi-allocation policy and procedure (covering distribution of BC's share of two future national allocations) accords with sound marketing policy with the following condition:
 - a) That the Egg Board report provided to BCFIRB when EFC forecasts a national allocation increase includes the following:
 - i. Quantitative information demonstrating that the allocation policy and procedure is forecast to meet the five major priorities of the Egg Board listed in its May 27, 2019 submission:
 - Promote animal welfare;
 - Support growth of small farms and new entrants;
 - Support regional growth;
 - Meet emerging market needs; and,
 - Encourage producers to move out of conventional production systems.
 - b) An updated table showing the date of EFC national allocation proposal; the date of Farm Products Council of Canada approval; the date quota is distributed by the Egg Board; when producers apply for chick placement permits and status of quota utilization.
53. BCFIRB is satisfied that the TAP accords with sound marketing policy. Implementation of the TAP rules remains subject to appeal to BCFIRB.
54. The Egg Board will annually review the effectiveness of TAP based on the Egg Board's two stated objectives: assist new entrants in expanding their operations while maximizing barn efficiency; and, ensure that the quota is used effectively as possible with 100% utilization.
55. BCFIB is satisfied the revised NPP rules reflect sound marketing policy. Implementation of the NPP rules remains subject to appeal to BCFIRB.
56. The Egg Board is directed to consider starting NPP entrants ahead of the regular schedule of two per year as part of the next national allocation.

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57. BCFIRB is satisfied the Quota Reserve Policies and Procedures accords with sound marketing policy.

Dated at Victoria, British Columbia, this 3rd day of July 2019.



Peter Donkers
Chair



Al Sakalauskas
Vice Chair



Daphne Stancil
Member



Dennis Lapierre
Member



Tamara Leigh
Member



Pawan Joshi
Member



Mary O'Callaghan
Member