

# **SUPERVISORY DECISION OF THE BRITISH COLUMBIA MARKETING BOARD ON EGG QUOTA ALLOCATION**

## **INTRODUCTION**

The Canadian Egg Marketing Agency (CEMA) must submit an annual quota allocation to the National Farm Products Council (NFPC) for prior approval. NFPC approved the 2000 allocation in early June following the resolution of a complaint filed by the Manitoba and Saskatchewan signatories. The CEMA 2000 quota order provided for an increase in the allocation to British Columbia of 107,415 birds.

The British Columbia Marketing Board (BCMB) and the British Columbia Egg Marketing Board (Egg Board) discussed the potential increase prior to the NFPC approval of the CEMA allocation. During these discussions the BCMB Chair advised the Egg Board that the issuance of the over base quota would require BCMB prior approval. The requirement for prior approval is set out in Section 37(c) of the British Columbia Egg Marketing Scheme 1967, B.C. Reg. 173/67 (Scheme) as amended. On June 8, 2000, the Egg Board made decisions to allocate the 107,415 birds of additional quota.

On June 26, 2000, the BCMB wrote to the Egg Board setting out the BCMB's legislative and regulatory authority and the implications for the quota allocations proposed by the Egg Board. The BCMB also issued a number of directions to the Egg Board. Briefly, the BCMB:

1. outlined the requirement for the Egg Board to obtain prior approval for any variances in quota issued to registered producers from the British Columbia portion of the over base quota and cancelled the Egg Board's Quota Regulation No. 9/2000;
2. set out that the 3% quota increase to registered producers "was and is of no force or effect";
3. provided conditional approval for the issuance of 17,000 birds for organic/specialty egg production and 5,000 birds for Vancouver Island egg production from the Temporary Restricted Licence Quota (TRLQ) program; and
4. set out a number of conditions and actions to be taken by the Egg Board in regards to the TRLQ program.

As a process for deciding on the approvals for the allocation of the quota the BCMB established a panel to conduct a supervisory review of issues. The BCMB Panel held public meetings in Vernon, Prince George, Nanaimo and Abbotsford and received written briefs from interested parties. The Ministry of Agriculture, Food and Fisheries (MAFF) participated in the public forums and presented information on the MAFF draft Regulated Marketing policies. The Egg Board and the Egg Industry Advisory Committee also participated.

On August 15, 2000, the BCMB Panel released the *Egg Quota Allocation Review* report, with instructions to the Egg Board. The decision to vary producer quotas by allocating an additional 3% was not approved and the Egg Board was advised that their quota allocation proposals did not satisfactorily address regional and specialty egg production issues.

The BCMB Panel further stated that the Egg Board must consider how to ensure that consumers in regions have better access to locally produced regulated product, how to make the TRLQ program more effective and less restrictive, improve the transparency of quota transfers and improve communications with industry stakeholders. The Egg Board was instructed to provide the BCMB Panel with their new quota allocation decision by October 1, 2000.

On September 18, 2000, the BCMB Panel wrote to the Egg Board following the review of the *“BC Egg Marketing Board Draft Revised Proposals for the BC Quota Allocation”*. In this letter the BCMB Panel noted that the Egg Board had responded to some of the issues raised in the BCMB Panel report, however, there were a number of issues that were not satisfactorily resolved. These included regional allocation and the terms and conditions of the TRLQ program. The BCMB Panel also noted that the Egg Board’s draft proposal for a 3% pro rata increase to all registered producers did not address issues of over production in the Okanagan/Shuswap region and shortages in the Lower Mainland, Vancouver Island and the Central and Northern regions.

On October 2, 2000, the BCMB Panel received the Egg Board’s *Revised BCEP Presentation and Summary of Decisions* documents. The Egg Board decisions were essentially the same as those contained in the earlier proposals that the BCMB Panel dealt with in the September 18, 2000 letter to the Egg Board.

The BCMB Panel has considered the proposed allocations presented by the Egg Board in the context of the information received through the supervisory review. As substantial consultation on the issues occurred during the supervisory review and as it is important that programs are established immediately to address the production and marketing issues in the egg industry, the BCMB has chosen to direct specific action to be taken by the Egg Board. The directions are set out in Part III of this document.

For reference, the relevant authority of the BCMB is set out in sections 3(5) and 11(2) of the *Act*, section 4 of the Regulations to the *Act*, and section 37(c) of the Scheme.

## **DISCUSSION**

At the outset of the Egg Quota Allocation Review, the BCMB Panel set out principles it would consider in determining what approval would be granted for the allocation of over base quota. These included:

- The Egg Board has a duty to ensure that quota, to which no monetary value is attached, is allocated to meet the production needs of the Province – which include regional and new entrant requirements.
- The Egg Board and the BCMB have a responsibility to ensure that the broader public interest is addressed, including consumer demand for regulated products and the production and marketing of the regulated products in all regions of the province.
- The Egg Board and the BCMB have a responsibility to ensure that the regulated marketing system retains flexibility and that programs are established to accommodate and promote emerging markets.

In its review of the decisions of the Egg Board and in developing its own directions, the BCMB has considered the following:

### **Allocation to Registered Producers**

- Registered producers who have contributed to the growth and stability of the egg industry are being granted a portion of the new growth allocated to the Province. In addition, by supporting the Egg Board to withhold quota to ensure the 97% CEMA threshold is maintained, no quota cuts are required now or in the near future. This, in effect, provides registered producers with a further benefit from the allocation.

In establishing the 30,000 bird allocation to registered producers the BCMB Panel sought to provide a balance between the need to meet the principles outlined above, while recognizing that registered producers have not received significant growth in their quota holdings over the years.

### **Market Responsive Allocation Pool (MRAP)**

- 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. The BCMB Panel has directed the Egg Board to establish the MRAP.

- The MRAP will hold quota allocated by the Egg Board from a percentage of any new growth allocated to British Columbia, quota collected through the 5% surrender on quota transfers, all quota presently held for the new entrant program and quota returned to the Egg Board by holders of TRLQ and quota under a market responsive quota program described later.
- Quota in the MRAP will be issued through the Temporary Restricted License Quota program and a market responsive quota program, to ensure that the egg industry can respond to changing consumer demand and emerging market opportunities.

### **Temporary Restricted License Quota (TRLQ)**

- To be successful the egg industry requires the flexibility to respond to changes in consumer demand and preferences, as well as to bring new producers into the industry. Fluctuations in production and demand in the regions of the Province must be addressed. To successfully manage the egg industry, the Egg Board requires the flexibility to direct production where it is needed.
- The BCMB Panel supports the initiative taken by the Egg Board to establish the TRLQ program to address these issues. However, there were a number of concerns raised during the supervisory review regarding the operation of the TRLQ program. To address these concerns the BCMB Panel is directing two significant changes to the TRLQ.
  - The first is that by the end of the 7-year term, 25% of the total TRLQ will be issued as regular quota from the MRAP to the TRLQ holder. The Egg Board did improve access to the TRLQ program by having a portion of the Market Licence Fee available to the TRLQ holder to acquire quota. However, it is the BCMB Panel's view that this is not sufficient in itself to address the availability of quota or the cost to acquire it.
  - Secondly, TRLQ was restricted to production of certified free-range and certified organic. The BCMB Panel has directed that TRLQ also be available for certified free run production. The Egg Board may exercise discretion to assess the demand for a type of specialty product, and determine the amount of production allocated through TRLQ. Therefore, it is not necessary to restrict free run from the program.
- The BCMB Panel has removed the requirement that a TRLQ holder have an irrevocable letter of credit. The Egg Board states that this requirement is needed to ensure that TRLQ holders abide by the terms of the program. The Egg Board has the authority to rescind TRLQ if a producer does not meet the

established terms and conditions. As well, the portion of the market licence fee, available to a TRLQ holder to purchase quota, and the issue of the final 25% of the quota from the MRAP, are strong incentives for TRLQ holders to abide by the terms and conditions of the program.

- TRLQ is designated for specialty production. The BCMB Panel wants to ensure that these requirements are considered separately from caged white and/or brown production.

### **Market Responsive Quota**

- The BCMB Panel also recognises that there is a need for increased caged white and/or brown production in many regions of the Province. This will be addressed through the Market Responsive Quota (MRQ) program. This program will be open to new entrants and to registered producers enabling the Egg Board to respond with flexibility to market issues and regional production shortages.
- The terms and conditions of the MRQ will be the same as the TRLQ, with the exception that the program relates to caged white and/or brown birds.

### **Provincial Quota Exchange (Administration of System)**

- The BCMB Panel heard throughout the review that all regions are short of production and, that a transparent method of quota transfer is necessary to provide confidence to producers in all regions that they have equal opportunity to access quota. The confidence of the public that the right to produce is available equally to all persons who are prepared to enter the industry is important to a positive perception of the regulated marketing system. The BCMB Panel heard also that some producers, especially in the regions, did not always have access to information regarding quota transfers. A provincial quota exchange provides the transparency and fair access needed to maintain producer and public confidence in the system.

The BCMB Panel has directed that a Provincial Egg Quota Exchange program is to be incorporated. The Egg Board will want to consider practices similar to the BC Milk Marketing Board Quota Exchange Program and the National Egg Quota Exchange. In both these programs, any interested person has the opportunity to participate in the exchange. Producers who wish to sell quota post the amount of quota available for transfer and the minimum price they will accept. Persons wishing to obtain quota submit a bid stating the amount of quota they wish to obtain and the maximum price that they will pay. The exchange matches offers with bids and the transfers are completed subject to the approval of the relevant Board.

## **DIRECTIONS TO THE BRITISH COLUMBIA EGG MARKETING BOARD**

Pursuant to the authority granted to the British Columbia Marketing Board (BCMB) in the *Natural Products Marketing (BC) Act* (the “Act”), the Regulations to the Act, and the British Columbia Egg Marketing Scheme, 1967, the BCMB issues the following directions to the British Columbia Egg Marketing Board (Egg Board):

1. The Egg Board may issue up to 30,000 birds to registered producers pro rata effective December 31, 2000.
2. The Egg Board is to establish a Market Responsive Allocation Pool (MRAP). The Egg Board is to place the 107,415 birds of quota issued by the Canadian Egg Marketing Agency (CEMA), less the above noted issue to producers, in the MRAP. A portion of the MRAP, not to exceed 20,000 birds, may be retained to assist in meeting the 97% threshold requirements established by CEMA. The remainder of the quota in the pool is to be used to provide quota for the Temporary Restricted Licence Quota (TRLQ) program and a Market Responsive Quota (MRQ) program. Priority is to be given to the allocation of 5,000 birds to the TRLQ program for Vancouver Island and 17,000 birds to the TRLQ Program for organic production. This priority should in no way be considered to be the only allocations required for these two purposes.

To ensure that the MRAP is sustainable the Egg Board will:

- subject to BCMB prior approval, issue a percentage of any new growth allocated to British Columbia to the MRAP; and
- allocate to this pool, quota surrendered to the Board through the 5% surrender on quota transfers; and
- allocate to this pool all quota presently held by the Egg Board in the “new entrant program”; and
- allocate to this pool all quota that is returned to the Egg Board by TRLQ and MRQ holders.

The Egg Board will annually publish an accounting of MRAP allocations and disbursements to industry stakeholders.

The MRAP is to be established by November 15, 2000.

3. The Egg Board is to make the following amendments to the TRLQ program set out in the document the “B.C. Flock Management Program – Temporary Restricted Licence”, dated October 2, 2000:
  - TRLQ may be issued for all types of specialty production (i.e. all but white or brown caged bird production);

- Priority is to be given to applicants who are new entrants to the industry, to meet regional marketing opportunities and to accommodate organic production in the regulated marketing system;
- TRLQ shall be granted on the condition that the TRLQ holder replaces 25% of the TRLQ with regular quota at the end of years 4, 5 and 6. At the end of year 7, the Egg Board will issue regular quota to the TRLQ holder to replace the remaining 25% of TRLQ;
- Remove the requirement that a TRLQ holder must obtain an irrevocable letter of credit;
- Birds will be allocated to the TRLQ program as directed in item #2, and as required. The Egg Board will not set a limit on the number of birds allocated to the MRAP for issue as TRLQ.

These changes are to be completed and the TRLQ program is to be implemented by November 15, 2000.

4. The Egg Board is to establish a Market Responsive Quota (MRQ) program to respond efficiently to market issues and regional production shortages. MRQ will be allocated on the following basis:
  - MRQ will be available for the production of eggs from white and/or brown caged birds;
  - Priority is to be given to applicants who are new entrants to the industry and to meet regional marketing opportunities;
  - Birds will be allocated to the MRQ program as directed in item #2, and as required. The Egg Board will not set a limit on the number of birds that may be allocated to the MRAP for issue as MRQ.

With the exception of the above, the amended TRLQ rules and procedures are to apply to the MRQ program.

The MRQ program is to be implemented by November 30, 2000.

5. The Egg Board will establish a Provincial Quota Exchange, satisfactory to the BCMB, by February 1, 2001. The program is to incorporate practices similar to the quota exchange operated by the BC Milk Marketing Board. The Egg Board is encouraged to confer with the BCMB in the development of the program. The existing transfer provisions related to regional restrictions on quota transfer, the requirement for Egg Board approval of quota transfers and the 5% surrender on quotas transfers are to be retained.
6. Upon the implementation of the amended TRLQ program, the MRQ program and the Provincial Quota Exchange, the Egg Board may rescind the orders or rules for the existing New Entrant Program.

In its summary of decisions, the Egg Board proposes to set minimum prices for specialty eggs. This decision is within the Egg Board's powers and jurisdiction and no direction from the BCMB is required.

Dated at Victoria the 26<sup>th</sup> day of October, 2000

Original signed by: \_\_\_\_\_  
Ross Husdon, Chair

Original signed by: \_\_\_\_\_  
Satwinder Bains, Member

Original signed by: \_\_\_\_\_  
Richard Bullock, Member

Original signed by: \_\_\_\_\_  
Harley Jensen, Member