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DELIVERED BY EMAIL, FAX OR MAIL

David Taylor
Chair
British Columbia Egg Marketing Board
150 – 32160 South Fraser Way
Abbotsford, BC V2T 1W5

Dear Mr. Taylor:

**REVIEW OF SPECIALTY PRODUCTION AND NEW ENTRANT PROGRAMS –
IMPROVING ACCESS TO THE SUPPLY MANAGEMENT SYSTEM**

On September 1 and 2, 2005, the British Columbia Farm Industry Review Board (FIRB) issued general directions to the five supply managed commodity boards in British Columbia. These directions followed a two year review by FIRB and the Ministry of Agriculture and Lands (the Ministry) concerning how specialty production, new entrant and quota programs were to be administered by the five Boards.

Boards were required to draft Orders in compliance with the general directions and submit the Orders to FIRB by October 31, 2005 for review and prior approval before implementation. Interested persons were provided an opportunity to make written submissions with respect to the draft Orders.

Draft amendments to the Standing Order (Orders) were submitted by the British Columbia Egg Marketing Board (Egg Board) on December 5, 2005 after FIRB granted an extension requested by the Egg Board. FIRB reviewed the Orders and considered the submissions received from various stakeholders. This initial review led FIRB to write to the Egg Board to require changes to certain provisions in the Orders and to seek clarification with respect to other provisions. The Egg Board responded on April 7, 2006 and the response was provided to industry for comment.

On May 11 and July 12, 2006, FIRB gave further consideration to the provisions of the Egg Board's proposed changes to the Orders dated April 7, 2006 relating to specialty, new entrants, small lot production and quota transfers, and considered the Egg Board's April 7, 2006 response to FIRB's letter of February 21, 2006 and written comments from interested parties received to May 10, 2006.

FIRB has determined that effective on the date of this letter, the Egg Board's proposed Order changes dated April 7, 2006 are approved, subject to the amendments outlined below and based on the following understandings.

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First and foremost, Egg Board allocation policies and decision-making are expected to be in accordance with the Ministry's "Regulated Marketing Economic Policy" and FIRB's September 1, 2005 directions. This overriding policy directive includes being responsive to specialty, niche and other innovative marketing opportunities on an ongoing basis. FIRB is of the firm opinion that B.C. producers should have the first opportunity to fully serve B.C.'s markets, including specialty segments.

Second, FIRB is generally satisfied that the Orders, once amended in accordance with the direction provided below, are in alignment with the policy expectations outlined in the September 1, 2005 directions. Significant input and expertise have informed the policy judgments and are reflected in the amended Orders. Nevertheless, regulatory changes of this nature necessarily require regulators to monitor, on an ongoing basis, whether and to what extent the proposed changes are achieving their policy objectives. Accordingly, FIRB recognizes that certain aspects of the Orders as they relate to specialty and new entrant programs will be the subject of ongoing dialogue and review, and that adjustments and amendments may still need to be made based on practical experience gained in applying and managing the Orders.

FIRB requires the Egg Board to be proactive and timely in responding to issues that emerge from the implementation of its new Orders. In responding to these issues and the potentially differing points of view and interpretations of the Orders, the Egg Board must act progressively, fairly, transparently and equitably. FIRB expects the Egg Board's Specialty Market Advisory Committee ("Specialty Committee") to have a key role in support of the Egg Board. FIRB encourages the Egg Board to engage the Specialty Committee on issues as soon as possible.

A significant constraint faced by the Egg Board is the inadequate and inequitable amount of production available to the province under the federal-provincial agreement and the resulting limits placed on all B.C. egg producers. Provincial signatories must actively pursue the changes in allocation policy necessary to support growth for all sectors of the B.C. industry. The Egg Board received specific instructions from FIRB on April 18, 2006, to "*pursue changes to how production is calculated in order to allow for more creativity and flexibility in the accounting and administration of exempt and small lot production. (FIRB) is not convinced that current restrictions are in the best long term interests of the supply managed egg sector in this province as they undermine public support for this important industry.*" Nevertheless, FIRB understands that it will take time to realize positive changes in these allocation systems, and FIRB requires that the Egg Board keep it apprised of its initiatives, needs and actions to realize changes in the existing Canadian Egg Marketing Agency (CEMA) allocation process.

Directions Regarding April 7, 2006 Orders Proposed by the Egg Board

Outlined below are the specific directions to the Egg Board which are to be incorporated into the Orders as part of the "BCEMB Specialty Proposed Standing Order Changes."

Designation of specialty products

1. FIRB agrees with the Egg Board's position that at this time only organic eggs are qualified on the basis of certification to be designated as specialty for quota purposes. Nevertheless, the Egg Board is defining free range and free run eggs as "specialty" eggs for most purposes except quota issuance. The Egg Board's proposal recognizes that the differences between organic, free range and free run are, in many respects, quite minor and that all qualify to be classified as specialty.

2. FIRB requires that the regulatory management associated with specialty eggs, including free range and free run, be administered with specialty quota. Accordingly, these eggs must become certified as specialty eggs, subject to paragraphs 6 to 9 below.

Quota

3. FIRB accepts the Egg Board's position that flexibility is required to meet changing market conditions. Accordingly, it is reasonable that one class of specialty quota be used for managing and administering several different designated types of specialty eggs.
4. The Egg Board is to utilize specialty quota for managing organic, free range, and free run egg production and marketing. Additionally, the Board, in consultation with the Specialty Committee, is to develop clear procedures for the shifting of production between different specialty egg types within specialty quota.
5. FIRB requires a report from the Egg Board concerning these procedures within specialty quota on or before March 31, 2007.

Certification of free range and free run production

6. Eggs designated and marketed as specialty must meet the criteria established for this classification, including certification.
7. The Board is required to ensure producers marketing free range and free run eggs are appropriately certified within three (3) years.
8. Failure to achieve certification is to result in removal of free range and free run producers from the Specialty Committee and will remove any priority for free range and free run producers for new entrant eligibility or pro-rata quota allocations to specialty quota.
9. For those free range and free run producers issued specialty quota pursuant to permit conversion, failure to achieve certification for these types of eggs within three (3) years will require these producers to either switch to a certified specialty egg product as approved by the Egg Board or face suspension or cancellation of their quota.

Market Responsive Allocation Pool (MRAP)

10. FIRB requires that the Egg Board retain the MRAP, and that all additional quota allocations received from CEMA plus any quota realized from transfer assessments and quota cancellations be placed in the MRAP.
11. FIRB requires the Egg Board to provide a current accounting of the MRAP together with a detailed accounting of how quota currently in the MRAP will be allocated among existing TRLQ and Special Permit holders, the small lot program, and the New Entrant Program. This report is to be provided to FIRB by October 31, 2006.
12. The Egg Board is to provide FIRB with an annual accounting of the MRAP, submitted at the time the Board submits its Annual Report or in accordance with reporting requirements established in the Memorandum of Understanding between the Minister, the FIRB Chair and the Chair of the Egg Board.

Quota Allocation

13. FIRB recognizes that the Egg Board has made provision for growth in organic egg production through TRLQ and Special permit conversion, dedicating the small lot program to organic production, and the application of new entrant invitation priorities. However, it is unclear how the Egg Board intends to provide for growth of organic producers beyond the amount they receive through the permit conversion or the new entry process other than by acquiring additional quota by transfer.
14. FIRB requires that the Egg Board clearly provide for the differential allocation from the MRAP to regular and specialty producers as determined by market need and with input from the Specialty Committee. Policies and procedures for differential allocation are to be developed by the Egg Board, in consultation with the Specialty Committee, for FIRB prior approval before further allocations, other than those set down in the Board's TRLQ and Special Permit conversion, Small Lot and New Entrant Programs, are contemplated.
15. FIRB recognizes that allocations from CEMA are a complex issue that significantly constrains the BC industry at the present time. FIRB requires that the Egg Board continue to work closely with FIRB and other BC stakeholders to obtain improved provincial allocations.

Movement between Quota Classes

16. The Egg Board is providing that holders of regular quota may apply to produce specialty eggs, subject to Board approval and demonstrated market needs not being met by permittee conversions and new entrant increases. The Egg Board is also providing that these producers may switch back to regular egg production, again on Board approval.
17. FIRB accepts that regular quotas may be approved to switch to specialty egg production, and that they should have the right to move back to regular egg production. FIRB requires that any production switching by holders of regular quota be for a minimum period of time, such as three (3) years, and that any approval by the Egg Board be subject to consultation with the Specialty Committee.
18. FIRB accepts that holders of specialty quota should be required to produce only specialty product for the first ten (10) years of the quota issuance and that specialty quota may only be transferred as specialty quota.

Quota Transfer Assessment

19. FIRB accepts the Egg Board's proposal to apply the 10/10/10 assessment to the first (1st) transfer after allocation for all new quota issued after September 1, 2005.
20. FIRB accepts the Egg Board's proposal to assess a 5% transfer assessment on all quota requested for transfer that was issued prior to September 1, 2005, and for all quota issued after September 1, 2005 that has previously been subject to the 10/10/10 assessment on the occasion of its first (1st) transfer after allocation.
21. FIRB requires the Egg Board to report annually to FIRB with the details of quotas transferred, assessments levied, exemptions authorized and the actual and/or planned distribution of quota realized from assessment. This reporting may be made when the Annual Report is submitted or

in accordance with reporting requirements established in the Memorandum of Understanding between the Minister, the FIRB Chair and the Chair of the Egg Board.

Quota Transfer Assessment Exemptions

22. FIRB accepts that exemptions from the assessment on quota transfer may be provided for spouses, children and business reorganization where the percentage ownership does not change.
23. The Egg Board may not provide any other exemptions from transfer assessment.

Levies

24. FIRB understands that the Egg Board presently views its levies as one amount without breakdown based on different services or programs other than a portion of the levy being used to fund the operations of the BC Egg Board with the balance being to fund CEMA operations and programs. Nevertheless, in light of the significant portion of total levies that are related to the buy-back/industrial product programs, FIRB questions the Egg Board requiring payment of this portion of the total levies by producers who are unable to access these programs.
25. FIRB is of the opinion that Board services for specialty producers, such as the Specialty Committee, are costs that should be borne by specialty producers. The Egg Board is directed to examine its services to both regular and specialty producers, including the matter of access to the buy-back/industrial product program, as part of its budgeting and levy setting for its next fiscal year. This examination is to be reported to FIRB and producers at the Egg Board's next AGM, including a review of services that can be attributed to or accessed by only one group or the other together with the Board's plans for either making unavailable services more readily accessible or providing for differential levies based on different service availability.

Quota Exchange

26. The Egg Board is to require all quota to be transferred through the Quota Exchange to provide transparent and equitable opportunity for all producers to offer quota for transfer or to seek to acquire quota by transfer. This approach has benefits for all producers, particularly those in regions outside the Fraser Valley.
27. The only exceptions from the requirement for transfer on the exchange are the exceptions outlined in paragraph 22. In addition, however, the Egg Board may choose to except a whole-farm transfer (egg production unit and quota) from the exchange when the farm and quota stay intact. In this situation, the transfer assessment provisions still apply except as provided in paragraph 22.
28. FIRB will monitor closely with the Egg Board the operation of the Quota Exchange and determine if changes are required as experience is gained.

Small Lot Program

FIRB accepts the Egg Board's small lot program subject to the following.

29. The Egg Board is to provide priority to applicants producing specialty eggs, including organic, free range and free run eggs, in regions outside the Fraser Valley.

30. If there are more applicants than available allocation, which is presently capped at an aggregate of 10,000 layers, the Egg Board is to establish a waiting list following criteria similar to those developed for the New Entrant Program. The Egg Board is to provide FIRB with a copy of the Small Lot Program waiting list annually when the Board submits its Annual Report to FIRB or in accordance with reporting requirements established in the Memorandum of Understanding between the Minister, the FIRB Chair and the Chair of the Egg Board.
31. The Egg Board is to ensure there is no double counting by CEMA when applying the permitted amounts. It is quite possible some small lot permittee production is already captured by CEMA from the production census data on which that organization relies in establishing the net B.C. allocation. Having it also deducted from the MRAP small lot pool would amount to a double count against B.C.'s allocation.
32. The Egg Board is to increase the small lot pool above 10,000 layers by any amounts issued that are subsequently determined to be double counting by CEMA and the Board, and which therefore cause an adjustment in CEMA's net allocation to B.C.
33. FIRB intends to monitor this program and may in the future discuss with the Board increasing the allocation pool of 10,000 assigned for this program.

Permit Conversion

34. FIRB accepts the Egg Board's proposed conversion of all TRLQ and Special Permit holders ("permittees") to quota subject to the following.
35. Permittees, except as outlined in paragraph 39 below, are to be entitled to quota issuance up to 5,000 units or the authorized production they held on December 31, 2004, whichever is greater. Increases from the amounts authorized at December 31, 2004 to the 5,000 level are to be directed by the Egg Board and made in an organized and equitable fashion among all permittees applying the criteria of market needs as outlined by the Egg Board.
36. Any permittees producing free range and free run are to be issued specialty quota with the condition that it will be suspended or cancelled if an acceptable certification program is not developed within three (3) years.
37. FIRB requires that any permittees who would, if they applied today, fail to meet the requirements of the new entrant program be limited to the amount of production they had authorized on December 31, 2004. For greater clarity, if a permittee would fail to qualify as a new applicant by virtue of being a quota holder, past or present, or being a direct family member of a quota holder, this permittee's eligibility to be issued quota, specialty or regular, upon conversion of the TRLQ or Special Permit programs is to be limited to the number of units they were authorized to produce on December 31, 2004.
38. FIRB requires that the Egg Board provide it with a list of all permittees together with an analysis of their approved production at December 2004, the type of egg they were producing at that time (i.e. organic, free range or free run) and their potential eligibility as new entrants in accordance with the restriction outlined in paragraph 37.
39. FIRB has consistently stated that permittees are liable for payment of levies on their permitted production, subject to Board discretion. FIRB is of the view that the portion of levies associated with the buy-back/industrial product program which is not, and has not, been available to certain

producers may be subject to interpretation. FIRB urges to Egg Board to carefully consider this matter in applying its discretion.

New Entrant Programs

40. FIRB accepts the Egg Board's new entrant program subject to the following.
41. The Egg Board is to provide for a minimum of two (2) new entrants each year.
42. Priorities in making invitations are to be for producers of specialty eggs, organic, free range and free run, outside the Lower Fraser Valley.
43. FIRB requires that the Egg Board submit the current waiting list showing an analysis of those on the list based on the eligibility criteria outlined by the Board. This report is to be provided to FIRB by August 31, 2006.
44. FIRB is concerned that the graduated approach may, in some circumstances, be economically unviable since a producer will need to establish facilities over several years, which may not be cost effective, or build facilities for the intended production level and leave these partially empty for some years, which may also not be cost effective. FIRB suggests that the Board consider these economic issues and, if considered necessary, make adjustments to the graduated entry approach.

Specialty Committee Composition.

45. FIRB continues to be concerned about the proposed composition of the Specialty Committee wherein regular quota holders and graders may well comprise a majority of the voting members.
46. FIRB requires that the Board consult with organic, free range and free run producers to determine their preferred appointee(s) prior to making any final appointments.
47. FIRB requires that the Egg Board member appointee be non-voting and that free range and free run appointees be chosen as clearly representing specialty producers in these categories.
48. FIRB encourages the Egg Board to consider appointing an independent Chair only if the industry members appointed by the Board are unable to agree to nominate a Chair from among themselves.
49. FIRB encourages the Egg Board to engage the Committee as soon as possible, and requests that the Board communicate its final membership to FIRB at its earliest convenience.

FIRB requires the Egg Board to make the necessary amendments to its Orders based on the above noted directions and have these in effect no later than August 31, 2006. FIRB also requires that the Egg Board submit to it a complete set of the Orders clearly showing with a black-line version all changes from the Orders currently in force.

FIRB will continue to monitor developments as the new Orders are implemented. This monitoring will include continued dialogue between FIRB and the Egg Board regarding the Orders and concerning issues that may arise. FIRB reserves the right to issue further supervisory directions to the Egg Board to ensure that the directions set out in this letter are carried out.

There will be performance expectations relating to the specialty and new entrant programs flowing from Memoranda of Understanding between the Minister of Agriculture and Lands, the Chair of FIRB and the chairs of the five supply managed boards. FIRB will also conduct a formal review of all specialty and quota transfer programs in three years time (2009).

The Specialty Review has been a challenging task and FIRB appreciates the contributions Egg Board members and staff have made to the process.

Yours truly,



Richard Bullock
Chair

pc: Daphne Stancil, Assistant Deputy Minister
Strategy, Policy and Legislation
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Bruce Cook, Chair
British Columbia Broiler Hatching Egg Commission

Ron Kilmury, Chair
British Columbia Chicken Marketing Board

Blaine Gorrell, Chair
British Columbia Milk Marketing Board

Ron Charles, Chair
British Columbia Turkey Marketing Board

Specialty Review Distribution List
FIRB Website