

BCEMB ANSWERS TO FIRB QUESTIONS REGARDING PROPOSED SPECIALTY STANDING ORDER CHANGES

April 7, 2006

Question 1.

Registration – FIRB would like to confirm its understanding that only registered producers vote: recorded producers do not vote. Personal exempt growers (<99 layers) and small lot producers (<399 layers) are recorded producers.

Answer 1.

To be eligible to vote in the BCEMB election, a producer must be:

- **a person who is a registered producer in the region in which an election is being held and holds quota; and**
- **in the case of a partnership or corporation, a registered producer who is a shareholder of the partnership or corporation and has been authorized in writing to vote on behalf of the partnership or corporation and the authorization is filed with the Board; and**
- **a person whose name remains in the Register of Producers and who holds quota on the date of the election.**

Personal exempt growers (99 layers or less and small lot producers 399 layers or less) are recorded producers and do not hold quota and therefore are not eligible to vote.

Question 2.

Specialty Eggs – Only certified organic eggs are classified as specialty. Please clarify how the Egg Board intends to classify free range and free run eggs and how it will convert Temporary Restricted Licence Quota (TRLQ) and special permittees currently operating under free range and free run permits.

Answer 2.

Free range and free run eggs are considered to be regular layer quota. The two TRLQ holders operating free range and free run layers will be allotted regular layer quota. Specialty layer quota will be restricted to organic production and any other new innovative organic production.

Question 3.

Quota Classes – The Egg Board’s program sets certified organic producers in the specialty class, and puts all other producers of eggs, caged and non-caged, in the regular class. Please clarify what conditions would be necessary for the Egg Board to consider including some other “type” of eggs in the specialty quota class.

Answer 3. Specialty layer quota refers to the production of organic eggs and any other new innovations that are organic production. New innovations that are not organic may enter under the New Entrant Regular Layer program, however the New Entrant Specialty program will be given preference over New Entrant Regular Layer program.

Proposed Standing Order SECTION 7(t) (viii)

“Priority will be given to the New Entrant Specialty Layer program including producers willing to produce new and innovative [organic] products.”

Note: we have added the word [organic] to the previous sentence since submitting the proposed Standing Order.

Question 4.

Market Needs – The draft changes rely on the concept of “market needs” in the administration of quota, new entrant, and permit conversion decision making. Please clarify the Egg Board’s definition of “market needs”, how those needs will be determined by the Egg Board and how they will be used in decision making.

Answer 4.

“Market Needs” refers to the type of production that the retail market place requires. “Market Designation” - All producers are directed to produce a particular type of egg in response to requests from the marketplace to supply that type of egg. These requests are made through the graders.

Graders respond to retail demands, which reflect consumer demands. Graders request production based on egg type whether that be, organic, free range, free run, white, brown etc.

The BCEMB will respond to grader requests by ensuring that production is available either through existing quota holders and/or under the New Entrant programs. The Board does conduct research to determine market trends, which allows the Board to project forward to future market requirements. However the Board primarily depends on grader requests to indicate current and future market needs. The newly created Specialty Committee will also be highly valuable in advising the Board about market needs. The BCEMB will utilize both market research and grader requests in the decision making process of determining what type of production should be grown.

Changes in market designation will be based on market needs and are subject to Board approval and having grader support. Priorities will be set by the Egg Board as market circumstances warrant.

Question 5.

Small Lot Program - The Egg Board has established a small lot program. The program provides for up to 399 layers for certified organic producers, the number of permittees is limited by a cap of 10,000 layers allocated to the program, permittees are not registered licensees and do not pay levies, permittees are ineligible for the new entrant programs, and permittees are prohibited from selling through a federally licensed grader (i.e., they must direct market). Please provide further information on the ineligibility of small lot producers who choose not to become organically certified, the waiting list procedures anticipated by the Egg Board, the basis for prohibiting shipment through legal operating channels, the rationale for making small lot permittees ineligible for the new entrant program, and the conditions that would give rise to an increase in the aggregate pool above 10,000 layers.

Answer 5.

The 399 or less exemption (the reserve of 10,000 layers) was designed for smaller life-style certified organic specialty egg producers. Small lot producers who choose not to become organically certified are not eligible. The understanding is that those producers who qualify for the small lot program would not be commercial egg production units that would ship to grading stations, i.e. they would direct market to the consumer at the farmgate. However, should the small lot producer decide to market eggs as Canada Grade "A" organic the producer must pay regular levies on product marketed through a registered grading station.

The Board agrees that should these producers wish to grow beyond 399 layers that they would then be eligible to apply to be added to the New Entrant Specialty Layer program waiting list as a new entrant. The expectation is that these producers would be fully certified prior to applying to become a New Entrant. In order to address future growth these producers will be given priority as new entrants.

The proposed Standing Order has been changed accordingly. Please see Standing Order SECTION 2 (k)

A 10,000 layer exemption is already a significant amount of all the layers currently available to supply emerging markets and New Entrant programs, thus it is not an insignificant amount. Any increase would further impact the ability of the Board to have a viable New Entrant program.

If required, a waiting list system for the small lot producers will be established.

Question 6.

TRLQ and Permit Programs – The Egg Board intends to terminate the existing TRLQ and Special Permit programs. It has removed the TRLQ section, which includes the Market Responsive Allocation Pool (MRAP), from its Standing Order. Please advise as to the allocation of amounts currently in the MRAP and the Egg Board’s plans for the MRAP going forward.

Answer 6.

The Board has adjusted SECTION 7 (t) as follows:

“(i) The Board may establish a Market Responsive Allocation Pool (MRAP) of quota that is set aside to allow existing TRLQ & Special Permit holders to increase to 5,000 layers if they so wish, and to facilitate the New Entrant programs.

(ii) Quota for the MRAP will be provided by transfer assessments and increases in national allocations from the Canadian Egg Marketing Agency (CEMA).”

The amounts currently in the MRAP will be allocated to existing TRLQ and Special Permit holders up to an amount of 5,000 layers. In addition any further amounts remaining will be available for the New Entrant Programs.

Question 7.

Permit Conversion - The Egg Board intends to convert TRLQ and specialty permits to quota, regular or specialty, up to a maximum of 5,000 layers/permittee. Permittees will be authorized to grow from their December 2004 permitted layers to 5,000 layers based on “market needs.” Permit conversion to quota, specialty or regular, is subject to payment of any outstanding levy amounts owing. Some permittees were above the 5,000 maximum at December 2004 and will therefore be cutback upon conversion. It is the position of the Certified Organic Associations of BC (COABC) that certain producers, who were in production prior to December 2004 but were not permittees, should be treated as “de facto” permittees. Please clarify how the “market needs” criterion will be applied, the number of layers to be allocated to permittees with greater than 5,000 at December 2004, whether it is the Egg Board’s intention to issue regular quota to free range and free run permittees, the intention to collect outstanding industrial product levies and the plan to disburse quota purchase deposit fees. FIRB would also appreciate receiving the Egg Board’s response to the COABC request that certain non-permitted producers be treated as “de facto” permittees.

Answer 7.

There were no TRLQ or Special Permit holders who held more than 5,000 layers of TRLQ or Special Permit at December 2004, who were eligible for conversion. Therefore, no one will need to be cut back. TRLQ and Special Permit holders must demonstrate market need by having a contract with a grader who signs off on the requested increase in production (up to 5,000 layers). There are two TRLQ holders that are not specialty (organic) producers. It is the Egg Board’s intention to issue regular layer quota to these free-run/free-range producers. It is the Board’s intention to collect outstanding levies and reimburse the quota purchase deposit fees prior to issuing quota. The Board does not intend to treat anyone who does not currently hold TRLQ or Special Permits as “defacto permittees” under the program.

Question 8.

Production Switching – The draft appears to provide for switching from regular to specialty production upon determination by the Egg Board of shifts in market needs. It is less clear whether specialty can switch to regular based on changing market needs. FIRB seeks clarification concerning the conditions and terms under which quota can be switched from regular to specialty or from specialty to regular.

Answer 8.

Changes in production type will be based on market needs and are subject to Board approval and having grader support. Regular Quota operations may switch to organic if the market requires it - i.e. upon grader request. Given that converting from caged to non-caged production requires a large financial commitment, producers will give such changes careful consideration and decisions to change will not be made lightly.

In previous submissions we have indicated that once Regular Quota is converted to Specialty Quota (organic), it cannot be converted back. This, in hindsight, does not appear to serve the market very well. Thus, provided there is exceptional circumstance subject to grader need and market demand, the Board is proposing to allow producers holding quota not issued from the Market Responsive Allocation Pool (MRAP) to switch to any of the short markets including organic that require additional production. Providing there is exceptional circumstances, subject to grader needs and market demands the Board may consider allowing regular quota holders, with non MRAP quota who have switched to organic to switch back to regular quota.

The Board's goal is to provide enough flexibility in a reasonable way to be able to respond to fluctuations in consumer demand. The current TRLQ and Special Permit holders will be given first opportunity to supply newly identified markets within their product type until all of these producers reach their desired maximum or 5,000 layers. After all the TRLQ and Special Permit holders have reached their desired maximum or 5,000 limit, any producer may apply to be considered to switch product type in order to supply the Specialty market (organic) if there is an unfulfilled market demand. The Board will from time to time seek input from the Specialty Committee on market requirements.

For all new quota allocations from the MRAP the first transfer must be within the product type for which the quota was allocated and no production type switching is allowed prior to the first transfer – e.g. Organic quota which has been allocated must be sold as organic quota upon transfer. Once MRAP quota has been transferred the quota is then subject to the same conditions as regular quota. Note: the transfer must be to a third party i.e. not subject to exemption under SECTION 9(j)

Question 9.

Quota Transfer – The draft changes provide that regular quota can be switched, under certain conditions, to specialty quota at the time of transfer. Please clarify the conditions which would give rise to a switch from regular to specialty quota, how the Quota Exchange is intended to operate, and if there are any conditions under which specialty quota could be switched to regular quota at the time of transfer.

Answer 9.

It is the Board's goal to ensure that short market producers (e.g. organic, free-run, free-range) have priority access to quota for purchase. Therefore, any white cage layer quota offered on the exchange must first be made available to supply the non-white cage layer markets. Non-white cage layer quota must first be offered on the exchange as the same market type if the market requires the product. The exception is for new MRAP quota where the first transfer must be within the product type for which the quota was allocated and no production type switching is allowed prior to the first transfer.

Changes in market designation will be based on market needs and are subject to Board approval and having grader support. The Board's goal is to provide enough flexibility in a reasonable way to be able to respond to fluctuations in consumer demand.

(When the draft changes are approved and come into effect, the Policies and Procedures for the Provincial Egg Quota Exchange will be redrafted to reflect the approved changes, including changes such as the removal of the exemption from the 5% assessment currently in the Policies)

Question 10.

Quota Assessment – The draft changes provide for a five percent assessment on all quota issued prior to September 2005, and a 10/10/10 assessment on quota issued after this date. Quota issued pursuant to permit conversion will be deemed to have an assessment start date of the permit issuance date. The Egg Board provides for certain exceptions from assessment, including what appears to be a “holiday” for the first transfer after allocation and the inclusion of siblings as exempt direct family transfers. FIRB requires clarification concerning the exemption from transfer for the first transfer after allocation and the Egg Board’s response to the request from a permittee that, for all quota issued pursuant to permit conversion, the first issuance date should be deemed to be the assessment start date.

Answer 10.

The Standing Order draft has been adjusted to clarify this issue. The section now reads:

(i) Partial Surrender on Transfer -

- For all new quota allocations after September 1, 2005, except as provided in SECTION 9 (j), the Board shall, for the first ten years, as a condition of approval of a first transfer after allocation, require the transferor to surrender to the Board the following per cent of the Quota applied for to be transferred to the transferee.

Until end of:

- Year 1) 100%**
- Year 2) 90%**
- Year 3) 80%**
- Year 4) 70%**
- Year 5) 60%**
- Year 6) 50%**
- Year 7) 40%**
- Year 8) 30%**
- Year 9) 20%**
- Year10+) 10%**

For all transfers after the first transfer after allocation, the surrender on transfer is five percent (5%). A condition of quota transfer is that any new quota allocated after September 1, 2005 held by the producer, is the first quota to be authorized for transfer by the Board i.e. ahead of any purchased quota. For multiple allocations the concept “last in first out” applies.

- For producers transferring quota allocated before September 1, 2005 the surrender on all transfers is five percent (5%).

The draft Standing Order states that “the start date for the schedule will be the original TRLQ or Special Permit date for the base amount and the date of issuance for any subsequent issuances”

Question 11.

Levies – The draft changes are generally silent in terms of levies. Levies are referenced in regards to payment of outstanding levies on permit conversion and review by the Specialty Committee on request from the Egg Board for advice. FIRB requires clarification concerning the applicability of industrial product levies to both permit amounts owing and specialty quota production in the future, and the disbursement of “quota deposit fees” payable by permittees.

Answer 11.

There is no separate “industrial product” levy. Levies are one figure out of which most of the funds are remitted to CEMA with a small amount retained to operate the BC Board. All producers pay the same levies. It is the Board’s understanding that the FIRB expects levies to be paid and the quota deposit fees returned to the TRLQ and Special Permit producers prior to their quota being issued.

Question 12.

New Entrant Program - The Egg Board's new entrant program provides for regular and specialty new entrants, up to a maximum of two new entrants per year, a graduated quota incentive increasing from 1,000 layers in years one and two to 3,000 layers after five to seven years. Waiting lists will be established for both regular and specialty applicants, including placement by seniority of qualifying individuals from the existing waiting list and new applicants, and invitations will be offered based on "market needs." Please clarify how the Egg Board will use "market needs" to determine whether to offer zero, one or two invitations in any given year, the number of qualifying individuals on the existing waiting list, and the intended source of allocation for the quota incentives.

Answer 12.

Graders must have requested that the Board fill a need for a particular product type to enable the grader to respond to an increase in consumer demand for that particular product type. All current TRLQ and Special Permit holders will be given priority to fill any grader request for their product type (up to the maximum of 5,000 layers) before any New Entrant is considered. New Entrants must demonstrate that they can produce for the market type being requested. Depending on the extent of the demonstrated market need the Board may approve from zero to two New Entrants each year with organic having priority.

Persons currently on waiting lists, and who qualify under proposed SECTION 7 (t, u or v), will be given the opportunity to be placed on the applicable new list and retain their original list position.

The amounts currently in the MRAP will be allocated to existing TRLQ and Special Permit holders up to an amount of 5,000 layers each. In addition, any further amounts remaining will be available for the New Entrant Programs. Quota for future New Entrant Programs will be provided by transfer assessments and increases in national allocations from CEMA.

Question 13.

Specialty Committee - The Egg Board's Specialty Committee is well detailed and terms of reference are clearly outlined. The Committee will be comprised of three producers, three grader/processors, an Egg Board member and an independent Chair. Producers will include specialty and regular quota holders and grader/processors will include at least one specialty grader. The terms of reference appear to provide that the Committee is restricted to addressing issues requested of it by the Egg Board. Please outline how Committee voting will be conducted and address the potential problem that five of the eight members of the Committee, a majority for voting purposes, could represent regular rather than specialty interests and the ability of the Committee to operate in a pro-active manner in developing recommendations to issues it believes should be addressed by the Egg Board.

Answer 13.

Voting is by simple majority. The makeup of the Committee is such that no one production type, organic, free-range or free-run represented on the Committee can dominate the Committee. These three types of production are interrelated in many ways. It is essential that price spreads between each of these types must be realistic and there needs to be an ability to downgrade to address temporary fluctuations in each of these markets. For these reasons it is essential that all three of these product types be represented on this Committee.

The draft Standing Order allows meetings to be called in two different ways: "Meetings shall be called at the request of the Board to consider an issue. Scheduling of the meetings is at the call of the Chair, or at the request of at least two appointees including at least one producer and one processor." This allows sufficient ability for the Committee to be pro-active and bring issues to the Board the Committee feels should be addressed.