



April 11, 2019

TO ALL ASIAN BREEDER SECTOR AND OTHER INDUSTRY STAKEHOLDERS

**RE: NEW DRAFT AMENDING ORDER
ASIAN BREEDER PRODUCTION**

Earlier, all stakeholders were consulted about a proposed Amending Order. That Order foundered, in part, because of difficulties experienced by all stakeholders in defining the regulated product as a "specialty" production. Other questions arose, and the Commission reassessed its approach to an Amending Order that would meet the expectations outlined in the July 17, 2018 decision of the BC Farm Industry Review Board (BCFIRB).

A key concern for the Commission is ensuring there is sufficient time and opportunity remaining in 2019 to complete a thorough review as to the future regulation of the Asian breeder sector. This is critical for all concerned to bring certainty and finality to an issue that has remained outstanding for far too long.

The new draft Amending Order is attached. This will be discussed at the April 15, 2019 Pricing and Production Advisory Committee meeting, and arrangements are being made for Asian breeder producers to meet with the undersigned. Subject to any substantive issues arising, the Commission intends to finalize the new Amending Order at its April 25, 2019 meeting. This will provide temporary certainty and enable the focus to shift to fully engaging in the overall review process.

As this Amending Order has more interface with the Commission's current Consolidated Order (i.e., is more complicated), here is an overview:

1. A breeder is a breeder, and a hatching egg is a hatching egg. In order to produce this regulated product in BC, you need the following from the Commission: quota, a permit such as the Small-Lot Innovative Self-Marketer Program, or a specific exemption. The question for the upcoming review is not whether Asian breeder production falls under the jurisdiction of the Commission; rather, it is how it should be regulated.
2. In order to provide for production controls as directed by BCFIRB, the Commission had to exercise its authority under the British Columbia Broiler Hatching Egg Scheme to issue quota. However, in order not to forestall the purpose of the review by predetermining an outcome, this quota will expire effective December 31, 2019 unless the Commission determines otherwise following the review.



3. Persons eligible for this temporary quota must have been in production in 2010 and provide flock information to the Commission for 2018.
4. This temporary quota will be based on chicks placed with licensed BC chicken producers in 2018, as verified by records of the BC Chicken Marketing Board.
5. Given its temporary nature, this quota will not be subject to LIFO and 10/10/10.
6. The Commission does not have a surplus removal program, but Asian breeder producers will be eligible for the Commission's small egg program where such eggs can be marketed through the Commission and producers receive the breaker price.

It must be stressed that this draft Amending Order is a temporary measure to provide short-term certainty without locking stakeholders into a predetermined outcome. This certainty will provide everyone with opportunity to fully engage in the review process, which must be completed before the end of this year. The Commission will be issuing a work plan so that this process can commence as soon as possible.

Asian breeder producers with questions about this Amending Order or the upcoming process are invited to meet with the undersigned at 3:00 p.m. on Wednesday, April 17, 2019 in the Commission offices.

Any comments from stakeholders regarding this draft Amending Order are to be submitted to the Commission office by the end of business on Tuesday, April 23, 2019 for consideration by the Commission at its April 25, 2019 meeting.

Yours truly,

A handwritten signature in black ink, appearing to read "J. Collins", written over a large, faint yellow circular watermark.

Jim Collins, Chair
BC Broiler Hatching Egg Commission

JC:ts

Attach.

Cc: BC Farm Industry Review Board
BC Chicken Marketing Board

**AMENDING ORDER ??
TO THE
CONSOLIDATED ORDER OF MAY 1, 2016**

**MADE BY
THE BRITISH COLUMBIA BROILER HATCHING EGG COMMISSION
ON _____, 2019**

The British Columbia Broiler Hatching Egg Commission orders as follows:

1. (1) *Subject to subsection (2), the Consolidated Order of May 1, 2016 is amended by replacing the words “Placement Quota”, wherever they appear, with the word “Quota”.*
- (2) *Subsection (1) does not apply to:*
 - (a) *The definitions of “Placement Quota” and “Special Allotment” in section 2 of the Consolidated Order of May 1, 2016;*
 - (b) *Paragraph 8(2)(d) of the Consolidated Order of May 1, 2016;*
 - (c) *Sections 9, 10, 20 and 21 of the Consolidated Order of May 1, 2016;*
 - (d) *Sections 4, 5, 6 and 7 of Schedule 1 to the Consolidated Order of May 1, 2016; and*
 - (e) *Sections 3, 4, 5 and 6 of Schedule 7 to the Consolidated Order of May 1, 2016.*
2. *Section 2 of the Consolidated Order of May 1, 2016 is amended by adding the following definitions:*

“Temporarily Regularized Producer” means a Registered Producer who has been allotted Temporarily Regularized Producer Chick Quota in accordance with the Temporary Regularization of Historically Non-Compliant Silkie and Taiwanese Producers Program Rules set out in Schedule 8.

“Temporarily Regularized Producer Chick Quota” means the maximum quantity, as determined by the Commission, of Chicks that may be hatched in a Quota Period from Broiler Hatching Eggs produced by a Temporarily Regularized Producer. All Temporarily Regularized Producer Chick Quota shall expire, without renewal, on December 31, 2019.

“Quota” means Placement Quota or Temporarily Regularized Producer Chick Quota, as the case may be.

3. *Section 2 of the Consolidated Order of May 1, 2016 is amended by replacing the definition of “Special Allotment” with the following:*

“Special Allotment” means:

- (a) a general allotment of Placement Quota by the Commission;
- (b) a special allotment of Placement Quota in accordance with the New Producer Program Rules set out in Schedule 1;
- (c) a special allotment of Placement Quota in accordance with the Small-Lot Innovative Self-Marketer Program Rules set out in Schedule 8;
- (d) a special allotment of Temporarily Regularized Producer Chick Quota in accordance with the Temporary Regularization of Historically Non-Compliant Silkie and Taiwanese Producers Program Rules set out in Schedule 8; or
- (e) a general allotment of Temporarily Regularized Producer Chick Quota.

4. *Section 2 of the Consolidated Order of May 1, 2016 is amended by replacing the definition of “Underweight Broiler Hatching Eggs” with the following:*

“Underweight Broiler Hatching Eggs” mean Broiler Hatching Eggs (other than Silkie or Taiwanese Broiler Hatching Eggs) weighing less than 52 grams.

5. *The Consolidated Order of May 1, 2016 is amended by adding the following section immediately after section 10:*

Special Allotment of Temporarily Regularized Producer Chick Quota Under Temporary Regularization of Historically Non-Compliant Silkie and Taiwanese Producers Program

10.1 The Commission may allot Temporarily Regularized Producer Chick Quota in accordance with the Temporary Regularization of Historically Non-Compliant Silkie and Taiwanese Producers Program Rules set out in Schedule 8.

6. *Subsection 16(2) of the Consolidated Order of May 1, 2016 is replaced with the following:*

(2) For the purposes of subsection (1), the Placement Quota being Transferred is deemed to be the Placement Quota most recently allotted to the Transferor. The Commission may, in its sole discretion, deem Placement Quota to have been allotted on a date that precedes the date of allotment recorded by the Commission where a Producer has satisfied the Commission, on satisfactory evidence, that there are good and sufficient reasons to do so.

7. *Section 18 of the Consolidated Order of May 1, 2016 is replaced with the following:*

Placement of Flocks by Hatcheries and Payment by Producers

18. (1) Each Hatchery must:
- (a) order and arrange for the placement of flocks of day-old broiler breeder pullets in accordance with the Official Flock Schedule, except with respect to a Temporarily Regularized Producer;
 - (b) pick up Marketable Eggs produced by each Producer assigned to that Hatchery pursuant to the Official Flock Schedule, except with respect to a Temporarily Regularized Producer;

- (c) place Marketable Eggs produced by the Producer or Producers referred to in the preceding paragraph into its incubators in a timely fashion and as soon after such Marketable Eggs are laid as is reasonably possible, except with respect to a Temporarily Regularized Producer;
- (2) Each Hatchery shall inform the Commission in writing of its chosen strain or strains of broiler breeders to be ordered and placed in accordance with the Official Flock Schedule, except with respect to a Temporarily Regularized Producer.
- (3) Unless otherwise agreed in writing, every Producer, , other than a Temporarily Regularized Producer, shall pay for day-old broiler breeders ordered and arranged by a Hatchery within 30 days from the date of placement of such day-old broiler breeders.
- (4) Where a Producer has failed or refused to pay the full amount due (without deduction, set-off or abatement) for a flock of day-old broiler breeders ordered and arranged by a Hatchery on behalf of that Producer:
 - (a) within 30 days from the date of placement of that flock; or
 - (b) within such other time as may have been agreed in writing between that Hatchery and that Producer with respect to that flock;

the Hatchery may:

- (c) forthwith deduct and withhold from the total payable to such Producer amounts sufficient to pay for that flock; and
- (d) commencing 30 days prior to the date of placement of the next flock of day-old broiler breeders, deduct and withhold from the total payable to such Producer amounts sufficient to pay for that next flock.

8. *Paragraph 23(b) of the Consolidated Order of May 1, 2016 is replaced with the following:*

- (b) all such Broiler Hatching Eggs (other than Silkie or Taiwanese Broiler Hatching Eggs) weigh at least 52 grams each; and

9. *Subsection 25(1) of the Consolidated Order of May 1, 2016 is replaced with the following:*

25. (1) Every Producer other than a Temporarily Regularized Producer shall market their broiler breeder flocks as directed by the Commission, and subject to:

- (a) any extraordinary kill age as may be directed by the Commission, after consultation with the Hatchery, where:

- (i) a broiler breeder flock has failed to produce Broiler Hatching Eggs with a consistent Hatchability of 70%; or

- (ii) there are other extraordinary circumstances warranting an extraordinary kill age.

- (b) any extraordinary kill age as may be directed by the Producer, after consultation with the Hatchery, where a broiler breeder flock has failed to produce at levels acceptable to that Producer.

10. *Section 26 of the Consolidated Order of May 1, 2016 is replaced with the following:*

Payment of Base Price for Broiler Hatching Eggs

26. Every Hatchery shall pay for Broiler Hatching Eggs at the base price set out in Schedule 2, provided that a reasonable surcharge may be imposed by a Hatchery to recover additional costs actually incurred by the Hatchery as a direct consequence of having to pick up Broiler Hatching Eggs from a Producer (other than a Temporarily Regularized Producer) who keeps less than 12,000 broiler breeders per Quota Period.

11. Section 1 of *Schedule 3 to the Consolidated Order of May 1, 2016* is replaced with the following:

Producer Levies

1. (1) Subject to subsections (2) and (3), levies are fixed and imposed upon each Producer at a rate of \$0.019 per Saleable Chick.
- (2) Notwithstanding subsection (1), levies are fixed and imposed upon each Producer engaged in Broiler Hatching Egg production under the Small-Lot Innovative Self-Marketer Program at a rate of \$0.015 per Saleable Chick.
- (3) Notwithstanding subsection (1), levies are fixed and imposed upon each Producer engaged in Broiler Hatching Egg production under the Temporary Regularization of Historically Non-Compliant Silkie and Taiwanese Producers Program at a rate of \$0.015 per Saleable Chick.

12. Paragraph 7(4)(a) of *Schedule 6 to the Consolidated Order of May 1, 2016* is replaced with the following:

- (a) of a minimum weight of 52 grams, unless they are Silkie or Taiwanese Broiler Hatching Eggs;

13. *The Consolidated Order of May 1, 2016* is amended by adding *Schedule 8* as attached.

14. *All amendments provided for herein as more particularly described in paragraphs 1 through 13 of this Amending Order shall be automatically repealed, effective January 1, 2020, without further order of the Commission.*

15. *This Order comes into effect on _____, 2019.*

DATED at Abbotsford, British Columbia, on _____, 2019

BRITISH COLUMBIA BROILER HATCHING EGG COMMISSION

Jim Collins, Chair

**SCHEDULE 8
TO THE BRITISH COLUMBIA BROILER HATCHING EGG COMMISSION
CONSOLIDATED ORDER**

**Temporary Regularization of Historically Non-Compliant Silkie and Taiwanese
Producers Program Rules**

Definitions

1. In these Rules:

“**Spouse**” means a partner in a marriage, or a Person with whom there has been cohabitation in a conjugal relationship, having so cohabitated for a continuous period of at least one year.

Application Under Temporary Regularization of Historically Non-Compliant Silkie and Taiwanese Producers Program

2. (1) Applications to participate in the Temporary Regularization of Historically Non-Compliant Silkie and Taiwanese Producers Program are made by filing with the Commission, on or before 3:00 p.m., [date], 2019:
- (a) an application form, obtainable from the Commission, duly completed by the applicant;
 - (b) a copy of the applicant’s birth certificate or other proof of age acceptable to the Commission;
 - (c) proof of Canadian citizenship or permanent resident status; and
 - (d) proof of permanent residence status in the Province of British Columbia.
- (2) Spouses may submit a joint application, but no more than one application may be submitted by both Spouses, or either of them.
- (3) An applicant under the Temporary Regularization of Historically Non-Compliant Silkie and Taiwanese Producers Program may be a partnership in which case each partner must qualify under subsection (4).
- (4) A Person seeking to participate in the Temporary Regularization of Historically Non-Compliant Silkie and Taiwanese Producers Program must have the following qualifications:
- (a) the Person must be a Canadian citizen or permanent resident of Canada;

- (b) the Person must be a permanent resident in the Province of British Columbia;
- (c) the Person must be at least 19 years of age at the time of application;
- (d) the Person must have been continuously engaged in the production of Silkie or Taiwanese Broiler Hatching Eggs from January 1, 2010 to December 31, 2010 without a licence issued by the Commission and without Placement Quota allotted by the Commission;
- (e) the Person must have been continuously engaged in the production of Silkie or Taiwanese Broiler Hatching Eggs from December 31, 2010 to the date of application without a licence issued by the Commission and without Placement Quota allotted by the Commission; and
- (f) the Person must have submitted a complete flock information report to the Commission for 2018.

Entry in Program

- 3. (1) The applicant must submit to the Commission, within 60 days from the date application:
 - (a) proof, in a form satisfactory to the Commission, that the applicant has been continuously engaged in the production of Silkie or Taiwanese Broiler Hatching Eggs from January 1, 2010 to December 31, 2010 without a licence issued by the Commission and without Placement Quota allotted by the Commission;
 - (b) proof, in a form satisfactory to the Commission, that the applicant has been continuously engaged in the production of Silkie or Taiwanese Broiler Hatching Eggs from December 31, 2010 to the date of application without a licence issued by the Commission and without Placement Quota allotted by the Commission;
 - (c) proof, in a form satisfactory to the Commission, that the applicant has submitted a complete flock information report to the Commission for 2018;
 - (d) proof, in a form satisfactory to the Commission, of the applicant's financial ability to maintain or to establish an acceptable Independent Production Unit for the production of Silkie or Taiwanese Broiler Hatching Eggs;

- (e) proof, in a form satisfactory to the Commission, that the applicant has economically viable plans to sustain the production of Silkie or Taiwanese Broiler Hatching Eggs;
 - (f) proof, in a form satisfactory to the Commission, that the applicant's Independent Production Unit is within economic access of a licensed Hatchery;
 - (g) proof, in a form satisfactory to the Commission, that the applicant is able to directly order and arrange for the placement of day-old Silkie or Taiwanese broiler breeder pullets;
 - (h) proof, in a form satisfactory to the Commission, that the applicant has made arrangements with a licensed Hatchery in good standing with the Commission for the hatching of day-old Silkie or Taiwanese broiler Chicks from the applicant's production;
 - (i) particulars of any exceptional circumstances as might justify an allotment of Temporarily Regularized Producer Chick Quota in amounts other than as provided for in subsection (2); and
 - (j) any other information deemed necessary by the Commission.
- (2) Subject to subsection (3), an applicant who has complied with subsection (1) to the satisfaction of the Commission will be allotted 1 unit of Temporarily Regularized Producer Chick Quota for every Silkie or Taiwanese Chick hatched from Broiler Hatching Eggs produced by the applicant and placed with licensed chicken growers within the Province between January 1, 2018 to December 31, 2018, as verified by the Commission from records kept by the British Columbia Chicken Marketing Board.
- (3) Where an applicant has submitted particulars of exceptional circumstances in accordance with paragraph 3(1)(i), the Commission may allot Temporarily Regularized Producer Chick Quota in amounts other than as provided for in subsection (2). In that event, Temporarily Regularized Producer Chick Quota allotted and issued to other persons in accordance with subsection (2) will be proportionately reduced in order to accommodate all allotments and issuances to such applicants.

Special Restrictions on Temporarily Regularized Producer Chick Quota Allotted Under the Program

4. (1) Temporarily Regularized Producer Chick Quota allotted under the Temporary Regularization of Historically Non-Compliant Silkie and Taiwanese Producers Program shall expire, without renewal, on December 31, 2019.
- (2) Temporarily Regularized Producer Chick Quota allotted under the Temporary Regularization of Historically Non-Compliant Silkie and Taiwanese Producers Program may be held for production by the entrant only for so long as the entrant:
 - (a) permits Commission audits of the farm operation to ensure compliance with Commission orders and all applicable legislation, including all terms and conditions of the Temporary Regularization of Historically Non-Compliant Silkie and Taiwanese Producers Program;
 - (b) is in good standing with all applicable Commission orders and all applicable legislation, including all terms and conditions of the Temporary Regularization of Historically Non-Compliant Silkie and Taiwanese Producers Program;
 - (c) is actively engaged in Silkie or Taiwanese Broiler Hatching Egg production; and
 - (d) uses the Temporarily Regularized Producer Chick Quota exclusively for the production of Silkie or Taiwanese Chicks;failing which the Temporarily Regularized Producer Chick Quota so allotted shall thereupon be subject to immediate cancellation on notice by the Commission to the entrant.
- (2) Temporarily Regularized Producer Chick Quota allotted under the Temporary Regularization of Historically Non-Compliant Silkie and Taiwanese Producers Program may be Transferred provided that it shall continue to be subject to all of the special restrictions described in subsection (1). Notwithstanding any other provision in the Consolidated Order, no surrender of Temporarily Regularized Producer Chick Quota is required on a Transfer thereof.
- (3) Temporarily Regularized Producer Chick Quota cannot be converted to Placement Quota.

Determination as to Whether the Entrant is Actively Engaged in Broiler Hatching Egg Production

5. (1) The Commission will determine, in its sole discretion, whether an entrant is actively engaged in Silkie or Taiwanese Broiler Hatching Egg production for the purposes of the Temporary Regularization of Historically Non-Compliant Silkie and Taiwanese Producers Program. Without limiting the generality of the foregoing, the Commission will have regard to the following factors:
 - (a) whether the Temporarily Regularized Producer Chick Quota is being used for the benefit of the entrant;
 - (b) whether the entrant is active in the day-to-day affairs of the Independent Production Unit, including matters of animal husbandry;
 - (c) whether the entrant operates and controls the Independent Production Unit;
 - (d) whether the entrant owns, leases or rents the Independent Production Unit;
 - (e) whether the entrant pays for feed and other farm supplies utilized on the Independent Production Unit;
 - (f) whether the entrant enjoys the chance of profit and bears the risk of loss in relation to the operations of the Independent Production Unit.
- (2) For the purpose of determining whether the entrant is actively engaged in the production of Broiler Hatching Eggs, the Commission shall have regard to the substance and effect of any arrangement made between the entrant and any other Person, irrespective of the form of that arrangement.
- (3) Where it appears to the Commission that the entrant is primarily engaged in the business of administering Temporarily Regularized Producer Chick Quota, and that some other Person is primarily engaged in the business of Silkie or Taiwanese Broiler Hatching Egg production associated with that Temporarily Regularized Producer Chick Quota, the entrant shall be deemed not to be actively engaged in Silkie or Taiwanese Broiler Hatching Egg production.