



July 28, 2020

Peter Donkers
Chair
BC Farm Industry Review Board
PO Box 9129 Sn Prov Govt
Victoria, BC V8W 9B5

Dear Mr. Donkers:

REGULATION OF ASIAN BREEDERS

The following is provided in response to the February 27, 2020 and May 28, 2020 letters of the BC Farm Industry Review Board (BCFIRB). It represents the BC Broiler Hatching Egg Commission's plan and timeline for fully integrating the Asian Breeder sector into the regulatory framework governing hatching eggs, breeders, and saleable chicks under the British Columbia Broiler Hatching Egg Scheme.

Introduction and Consultation Process

This report originates from a framework developed at an April 22, 2020 meeting of Commission representatives with all Asian Breeder producers. On May 21, 2020, the Commission board accepted the framework in principle and authorized a consultation process to fine-tune the framework, get final acceptance from Asian Breeder producers and ensure that mainstream broiler hatching egg producers and other impacted stakeholders had opportunity to provide input.

This framework was then discussed with the directors of the BC Broiler Hatching Egg Producers' Association (BCBHEPA) to ensure that the directors understood the framework and the importance of bringing this issue to a constructive conclusion. This did not preclude the Association or mainstream broiler hatching egg producers from further input later in the consultation process as the framework evolved.

An initial outline of this report and the feedback from the Association directors was then reviewed with the Asian Breeder producers and hatcheries (currently integrated) and updated to reflect issues and comments to that point. On July 3, 2020, the outline and a draft of the final report was circulated to:

- the BCBHEPA;
- the BC Egg Hatchery Association (BCEHA);
- the BC Chicken Marketing Board;
- the BC Chicken Growers' Association;
- the Commission's Pricing and Production Advisory Committee (PPAC); and,

BC Broiler Hatching Egg Commission

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- the Commission's website for the information of and comment from mainstream producers and other interested stakeholders (with notice of the posting provided in the Commission's July 3 Newsletter).

Feedback was requested by July 21 in support of the Commission's July 23, 2020 board meeting. No feedback was received for the Commission to consider prior to finalizing the report.

It is the view of the Commission that this plan and timeline – established through a SAFETI¹- based process – is in accordance with sound marketing policy for the regulated BC broiler hatching egg sector.

Background

Regulatory questions pertaining to the Asian Breeder sector first arose in 2005 as part of BCFIRB's Specialty Review. At that time, BCFIRB stated that "[t]he Commission's belief that a specialty production and marketing management program is not required seems reasonable", and noted that "[t]he Commission may wish to provide, if it has not already done so, a specific exemption for Asian specialty breeders."

In 2009, an Avian Influenza event at a non-registered Silkie farm in the Fraser Valley highlighted a supply chain gap and risk to the BC poultry sector. BCFIRB instructed the Commission to address this gap by implementing and enforcing Schedule 5 requirements for Asian Breeder producers. Schedule 5 of the Commission's Consolidated Order outlines the biosecurity, food safety and (animal handling) code of practice expectations of hatching egg producers. BCFIRB also referred to the 2005 Specialty Review and asked the Commission whether the sector should be further regulated.

Initially, the Commission intended to further exempt Asian Breeder producers from regulation except for the Schedule 5 requirements. This had support from some Asian Breeder producers. Subsequently, the Commission reconsidered, announcing its intent to issue quota in support of orderly marketing, thereby enhancing its capacity to enforce Schedule 5 and other regulations through its powers to issue, suspend and rescind quota. Although this was prior to changes to the *Natural Products Marketing (BC) Act* that provided for administrative penalties (yet to be implemented), this additional enforcement mechanism that could be used in place of quota measures is no longer directly relevant to the fundamental question of whether Asian Breeders should be regulated.

Some Asian Breeder producers favoured this approach, and some did not. The matter became adversarial and difficult with the Asian Breeder sector and for the Commission. It was an ongoing challenge for the Commission to acquire information necessary to the management of a regulated product.

In 2015, the Commission announced a chick-based quota system. The system was driven by the Chicken Farmers of Canada allocation which drives the Canadian Hatching Egg Producers (CHEP) national allocation system. This was appealed to BCFIRB, which stated the following in its March 29, 2016 decision overturning the Commission:

¹ Strategic, Accountable, Fair, Effective, Transparent, Inclusive.

The panel finds that regulated a return to fewer producers of Asian chicks than now exist is not consistent with sound marketing policy. In the current market, chicken growers have more choice of chick producers and there is increased opportunity for the development of variety within hatching egg breeds. We heard compelling arguments that diversity of producers in the Asian hatching egg sector provides for a more resilient marketplace, increased production efficiencies with the sector overall and protection in the event of outbreaks of disease or other disasters. In our view, the Commission's orders fair to give sufficient weight to the importance of diversity amongst producers in the further development of this sector. (para. 117)

Subsequently, the Commission reconsidered its intention to further regulate Asian Breeder producers as exemption permitting would provide those producers the flexibility to achieve market demands, the ability to manage their own production and minimize their regulatory obligations. This would maintain the historical status of Asian Breeder producers and promote "diversity amongst producers in the further development of the sector."

An initial application to BCFIRB on August 19, 2016 for prior approval to exclude Asian Breeder producers from regulation apart from Schedule 5 was again appealed. BCFIRB initiated the supervisory review which continues today. The Commission was directed to undertake a further review and report back to BCFIRB.

On June 28, 2017, the Commission submitted recommendations to BCFIRB that addressed diversity, regulation, pricing, discovery (how the Commission would monitor Asian Breeder issues), new entrants, levies, compliance and enforcement, harm, and markets. The structure of the sector (producer/hatchery integration) was noted specifically. The Commission reiterated its commitment to the overarching policy objectives of the Ministry of Agriculture's Regulated Economic Policy and the Specialty Review. However, it was the Commission's view that except for Schedule 1 and Schedule 5, Asian Breeder producers should be exempt from regulation to support "diversity and further encourages flexibility and innovation" as mandated by BCFIRB in its March 29, 2016 appeal decision.

In a July 17, 2018 supervisory decision, BCFIRB did not approve the Commission's recommendation that Asian Breeder producers be exempted from regulation apart from Schedule 1 and Schedule 5. BCFIRB agreed that Asian Breeder producers should be "contributing to the sector's portion of the costs of administering and enforcing Schedule 5; and the sector's portion of federal levies resulting from reported specialty production to CHEP."

The Commission was directed to establish a condition-based transferable production permit for Asian Breeder producers that included a requirement for transfers to be approved by the Commission, Schedule 5 requirements, and "production volume by strain and volume of strain" by production cycle. Such permits not to be issued to a producer until that producer was in full compliance with Schedule 5.

BCFIRB also provided direction about the Commission involving the Asian Breeder sector in its strategic planning, establishing baseline (production) information, hatchery licensing, PPAC membership and industry entrants (new entrants).

Since July 2018, the Commission has:

- a. ensured all Asian Breeder producers are following Schedule 5;
- b. established Temporarily Regularized Producer Chick quota;
- c. directed Asian Breeder producers to commence paying levies;
- d. appointed an Asian Breeder producer and an Asian Breeder hatchery representative to the PPAC;
- e. approved the transfer of Temporary quota from an exiting producer to another existing Asian Breeder producer (there are now five Asian Breeder producers);
- f. included the Asian Breeder sector in its strategic planning, including with respect to industry entry; and,
- g. conducted meetings with Asian Breeder producers as a group to discuss industry issues and examine regulatory implementation options.

Approach Leading to Regulatory Integration

Throughout the many years this issue has been before the Commission and BCFIRB, there have been many conflicting positions. Not only between the parties but internally within parties. This continued after the July 2018 supervisory decision of BCFIRB as the Commission in consultation with Asian Breeder producers attempted to identify solutions. Finally, at an April 22, 2020 meeting, the Commission felt it necessary to advance some guidance as to a proper regulatory framework and to get clarification on a range of issues. As a result, the following understandings were reached:

1. The option of Asian Breeder producers being exempted from regulation apart from Schedule 1 and 5 was offered to the Asian Breeder producers on several occasions. It has since been decided by BCFIRB. They shall not be exempted.
2. Production quota is issued to producers, not hatcheries. Therefore, quota policies must be established for Asian Breeder producers not hatcheries. Subject to the discussion below regarding transition, the Commission's objective is to establish a framework that could eventually support non-integrated Asian Breeder producers.
3. There are well-established, producer-based specialty chicken, dairy, egg, and turkey regulatory examples in BC.
4. Some of the Asian Breeder producers have integrated hatcheries which are all licensed as producer hatcheries: Bradner Farms, Coastline Chicks and Golden Feather Hatchery. The other two Asian Breeder producers have non-licensed "virtual hatcheries" that in practice operate through custom hatching arrangements. Given the current integrated economic model of the Asian Breeder sector, these custom hatching arrangements should continue pending a transition to a fully regulated, producer-based Asian Breeder economic model.

5. Currently, there are only two types of Asian Breeders for which to account, Taiwanese Chicken (TC) and Silkie. Genetics are a factor but for the purposes of planning and managing regulated production, it is possible for TC and Silkie hatching eggs to be shipped to a different hatchery and for a hatchery to place chicks with growers normally supplied from another hatchery.
6. As originally contemplated by the Commission in 2015, chick-based quota is appropriate for the Asian Breeder sector and levies will continue to be based on saleable chicks. Note: Mainstream levies are also based on saleable chicks and as the Commission is considering transitioning mainstream quota from hen-based to egg-based and, potentially, chick-based, this would provide regulatory consistency amongst all producers.
7. There are no immediate concerns regarding imports/exports and these issues will be reviewed during the transition phase.
8. Asian Breeder representation on the PPAC will continue but in the absence of a Commission Specialty Markets Advisory Committee (SMAC), the Commission and the five Asian Breeder producers/hatcheries will continue to meet regularly during the transition phase.
9. Increased liaison and cooperation between the Commission, the Chicken Board and their respective "SMACs" is important going forward. Understanding processor (market) projections and placement requirements in the grower sector will assist in stabilizing hatching egg production (less peaks and valleys).

National and Provincial Reporting Obligations

Currently, approximately three percent of BC's national allocation is assigned to specialty production. Historically, there has been no substantive rationale or detailed data provided in support of that assignment. Asian Breeder production calculations to date have significant gaps and assumptions. It is essential that complete and accurate information about all BC hatching egg production is available in support of separating BC's mainstream and specialty allocations.

Although all the Asian Breeder hatcheries are all reporting through the Hatching Egg Reporting System (HERS), much more detailed work is required. Meat to egg ratio, rate of lay and hatchability of the two breeds are examples of the gaps. The payment of levies on a saleable-chick basis is also affected without further corroborating information. Closing this information gap must be a priority for the Commission and Asian Breeder producers as it is essential for the effective regulation and accountability of the specialty sector.

Although there is compliance with Schedule 5 requirements, including with respect to the general care of animals, there is no national (CHEP) animal care program specific to Asian Breeders. The Commission is working with Asian Breeder producers and CHEP staff in addressing this issue.

New Entrants

There is consensus amongst all stakeholders that entry into the industry should be restricted during a transition period that would allow the industry to transition to full regulation. This is especially important in terms of supporting a non-integrated producer (e.g., with a cost of production model). It is also understood that an Asian Breeder new entrant program will be considered as part of a larger review of the Commission's new entrant program for mainstream and, possibly, regional production.

Pricing

Except for turkey, the other three supply managed boards have cost of production (COP)-based pricing models. This supports having a similar model for Asian Breeder hatching egg producers. This would also be essential for a non-integrated Asian Breeder producer (e.g., a new entrant) and in keeping with the Commission's objective to have a more fulsome COP-based pricing approach for mainstream producers.

As the current pricing structure in the Asian Breeder sector is based on integrated operations, it has been agreed that interim pricing set by the Commission will be based on the following model:

| | | | | | | |
|----------------------------------|-----------|------------------|-----------|------------------|-----------|------------------|
| Day-Old Price | | \$ 1.1000 | | \$ 1.1200 | | \$ 1.1500 |
| Hatchery Margin | \$ 0.1894 | | \$ 0.1894 | | \$ 0.1894 | |
| Add 10% | \$ 0.0189 | | \$ 0.0189 | | \$ 0.0189 | |
| | | -\$ 0.2083 | | -\$ 0.2083 | | -\$ 0.2083 |
| Saleable Chick (Producer) | | \$ 0.8917 | | \$ 0.9117 | | \$ 0.9417 |
| Saleable Doz (80% rate assum.) | | \$ 8.56 | | \$ 8.75 | | \$ 9.04 |

Levies

Will remain at \$0.015 per saleable chick until the COP review is initiated; at which time it will increase to the mainstream amount (currently \$0.019 per saleable chick). Levies paid by Asian Breeder producers will continue to be accounted for separately during the transition period.

Quota

The Temporarily Regularized Producer Chick quota will be fully regularized once accurate producer identification information and production data is available to the Commission for the purposes of confirming provincial quota allocations and to CHEP for the purposes of a separate national allocation.

Once fully regularized this quota will be subject to the same rules and policies currently governing mainstream quota (e.g., LIFO and 10/10/10). All hatching egg quota will be included in the upcoming Commission review of its quota policies.

Hatcheries

The three Asian Breeder producer hatcheries will continue to be licensed by the Commission and report under HERS. Pending a transition to a producer-based model (including pricing), the two custom hatching operations not licensed as hatcheries will also report hatching data through HERS, via the licensed hatchery eggs are set at. The Commission intends conducting a full review of its regulations, licensing, and reporting requirements for all mainstream and specialty hatcheries.

Association Membership

It is for the BCBHEPA to determine its membership and currently its constitution and bylaws restrict membership to mainstream producers.

The BCBHEPA is aware however, of the legal reality that Asian Breeder producers are now registered by the Commission under the Scheme. This means that in addition to paying levies, Asian Breeder producers are eligible to vote in Commission elections and stand for election to the Commission.

It is the Commission's understanding that specialty producers holding quota are not restricted from membership in the producer associations in the chicken, egg, dairy and turkey sectors.

Implementation Timeline

The Commission notes BCFIRB's July 31, 2020 deadline for implementation. Full implementation is not possible by that deadline, however, there is agreement on full implementation and that it occur as follows:

- full regularization of (Specialty) Quota as soon as the Commission is in possession of sufficient production information to confirm quota allocation and support application to CHEP for separate national allocations;
- interim pricing model in place by July 31, 2020;
- initiation of third-party COP review by December 2020; and,
- increase in Asian Breeder levies to mainstream amount (currently t\$0.019 per saleable chick) effective the commencement of a third-party COP review.

Amendments to the Commission's Consolidated Order will be drafted as required during this transition period. As well, the Commission will be reviewing its Consolidated Order to ensure that the production of broiler breeders and hatching eggs takes place only under quota, under permit or through exemption from regulation by the Commission. In addition to its current Small Lot Innovative Self-Marketing Program, the Commission will be putting in place provisions in its Consolidated Order to ensure any new types of production identified in future can be responded to and regulated appropriately.

Liaison with the Chicken Board and its committees, meetings between the Commission and Asian Breeder producers/hatcheries, the quota policy review and other measures arising out of the Commission's strategic planning will be ongoing or placed in the overall Commission schedule and specific workplans as required.

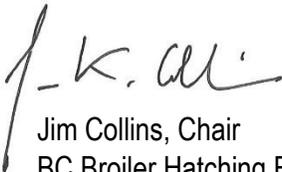
The Commission's strategic planning objectives and timelines are included in workplans which are routinely shared with all producers and stakeholders.

Conclusion

As outlined in the Background, this issue has been percolating in the hatching egg sector for 15 years. During that time there has been ongoing conflict, disagreements (including internally) as to whether the sector should be exempted or not, concerns as to what type of production quota was appropriate (chick based quota on the table, then off, now back on), how to distinguish hatcheries from producers and balancing genetics vs. the reality of managing a regulated production framework.

The Commission has worked constructively with all stakeholders to reach the consensus reflected in this report. It provides a way ahead for the Asian Breeder sector as part of the larger regulated BC hatching egg sector. This will bring a long-standing dispute to a close and allow the industry to move forward together.

Yours truly,

A handwritten signature in black ink, appearing to read "J. Collins".

Jim Collins, Chair
BC Broiler Hatching Egg Commission

cc: Asian Breeder Producers and Hatcheries
BC Broiler Hatching Egg Producers' Association
BC Egg Hatchery Association

BC Chicken Marketing Board

Commission website