

Schedule 15
(Part 55)
(Section 55.4)

Board Decision or Determination

Form B

attach applicable Forms A, if available

A-129 Mainstream Pricing request for Exceptional Circumstances.

March 4, 2015

1. Date(s) of this decision: March 4, 2015

2. Members of Board present for decision:

R. Smith, DA Janzen, A. Johnston, K. Froese, and G. Gauthier.

3. What sources of information did the Board consider in coming to its decision?

Form A - Application for Decision or Determination

Board Staff's Briefing Note

Applicant's oral submissions

Board's Orders (give reference numbers, if applicable):

Schedule 2

Other (explain):

- BCFIRB Supervisory Decision dated June 9, 2010 entitled "In the Matter of a Supervisory Review of BCCMB Pricing Related Recommendations".

- February 27, 2015 letter from BCCGA re: application for amendment of BCCMB Pricing Order #120 Period A-129 due to exceptional circumstances.
- PPAC Minutes of March 4, 2015
- Revised CFO Live Price Update for A-129 & “breakdown of live price components and resulting changes from new Reg 402 amendments.
- Pricing Order #120 – mainstream price for A-129 dated February 26, 2015.
- Documents provided by grower members of PPAC
 - CFO Pricing Bulletin for A-129
 - CFS Pricing bulletin #354 (for A-129)
 - MCP Pricing bulletin #307 (for A-129)
 - ACP Pricing bulletin for A-129 & minimum live price order dated February 20, 2015
 - Aug 11, 2011 letter from BCCMB to PPAC re: A-106 pricing & CFO Live Price Update for A-106 (August 5, 2011).
- CFC Pricing Bulletin #128 - 2015

4. What is the Board’s decision?

To accept the March 4, 2015 unanimous recommendation of the PPAC respecting exceptional circumstances and:

(1) Not reopen and amend Pricing Order #120 dated February 26, 2015 for live price of mainstream chicken for quota period A-129 (February 22 – April 18, 2015).

(2) Instead an adjustment will be made to quota period A-130 only. The adjustment is calculated as follows:

Ontario price using “new” weight category (2.15 to 2.45 kg live weight) results in BC price formula result = \$1.6245

Ontario price using “old” weight category (1.84 to 1.95 or 2.45 to 2.65 kg live weight)

results in BC price formula result = \$1.6377

Difference equals = \$0.0132. This adjustment will be added to the differential of \$0.0485 for a total differential of **\$0.0617** for quota period A-130.

- (3) Going forward commencing in A-130 the BCCMB will use the Ontario posted price in the traditional or “old” weight category of 1.84 to 1.95 or 2.45 to 2.64 kg live weight as its input to the BC formula.

5. Why did the Board come to this decision?

The PPAC, when it met with the Board on March 4, 2015 achieved consensus. The processors agreed with the growers that the adjustment was appropriate to reinstate the competitive spread versus other provinces. Processors agreed that the adjustment is required, but that it should be made in the next period as processor’s customer contracts for A-129 cannot be amended retroactively. Processors noted that any amendment to the price already set in A-129 would result in harm to the processors.

RATIONALE FOR DECISION BASED ON OUTCOME BASED PRINCIPLES

Strategic

- The Board has the authority to determine the price of the regulated product under the *Natural Products Marketing (BC) Act 11(1)(k)* “to set the prices, maximum prices, minimum prices or both maximum and minimum prices at which a regulated product or grade or class of it may be bought or sold in British Columbia or that must be paid for the regulated product by a designated agency and to set different prices for different parts of British Columbia;”
- The Board has the authority to make orders and rules considered by the marketing board necessary to control and regulate the regulated product under the *Natural Products*

Marketing (BC) Act 11(1)(q) “to make orders and rules considered by the marketing board or commission necessary or advisable to promote, control and regulate effectively the production, transportation, packing, storage or marketing of a regulated product, and to amend or revoke them;”

- The Board has the power to make orders within its jurisdiction, as that jurisdiction is set out under the *British Columbia Chicken Marketing Scheme (1961) under section 4.01 “(g) to fix the price or prices, maximum price or prices, minimum price or prices, or both maximum and minimum prices at which the live prices over 2 days old that are regulated product, or any grade or class of chicken thereof, may be bought or sold in the Province, or that shall be paid for the regulated product by a designated agency, and may fix different prices for different parts of the Province;”*
- The Board is required under 3.20(3) of the *British Columbia Chicken Marketing Scheme (1961)* to “consult with the PPAC and consider the committee’s advice before the Board makes any decision relating to pricing and production.”
- The Board’s Strategic Plan requires the Board to work with the value chain to optimize efficiency and deliver to consumers; engage stakeholders to gain their trust and confidence; strengthen our social licence and implement policy in a timely manner.
- The Board’s General Orders at Schedule 2(7) Variation for Exceptional Circumstances notes that the Board will not reopen the issue of pricing for a Quota period once a period has started unless exceptional circumstances is triggered. A concise set of rules outlines the process and timeline to be followed. In this instance the Board exercised its discretion and has waived the deadline due to the fact that several Provincial prices which impact the BC formula were not known until February 26th (the day the Board set the price) which is after the February 22nd date the period A-129 started.

Accountable

- The Board is accountable to industry members, processors and growers in its value chain including the public.

- The BCFIRB Supervisory Decision of June 9, 2010 at paragraph 88 deals with the issue of the pricing model which is ordered to be incorporated in the BCCMB General Orders (at Schedule 19). All parties at the Supervisory Review agreed that a working pricing model must be consistent, predictable, transparent and result in a live price that gives growers a reasonable return and allows processors to be competitive in the Canadian Market. FIRB determined the pricing model best accords sound marketing policy.
- A decision by the Chicken Board with respect to exceptional circumstances is appealable to BCFIRB. Any person aggrieved by a decision of the Board may appeal to BCFIRB.

Fair

- All parties who will be impacted by this decision have been considered and heard.
- The PPAC, which represents both growers and processors, achieved unanimous consensus on this issue.

Effective

- The decision promotes the objectives of the Board for the BC chicken industry and is consistent with sound marketing policy.

Transparent & Inclusive

- The rules are contained in the General Orders respecting pricing and exceptional circumstances.
- All parties were given the opportunity to participate in the process as per the General Orders.
- A copy of the decision of the Board and its rationale will be circulated to the PPAC. A notice of the decision will be included in the monthly Board Report.

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