

British Columbia Farm Industry Review Board (FIRB)

**Review of Specialty Production and New Entrant Programs
Improving Access to the Supply Management System
(Specialty Review)**

Questions and Answers

1. INTRODUCTION

This document responds to questions regarding a review of programs for the production and marketing of broiler hatching eggs, chicken, eggs, turkey and cow's milk, which are regulated under provincial legislation administered by marketing boards (boards). If you raise or keep animals used to produce these supply managed commodities you may be impacted by the results of this review.

Please note that there are other provincial regulations which govern the slaughter of livestock and the sale of farm products. These regulations are not administered by the boards and are not addressed in this review. To obtain information on other regulations, please refer to section 3.

2. CHANGES IN SUPPLY MANAGED COMMODITIES BROUGHT ABOUT BY THE SPECIALTY REVIEW

2.1 Do the changes impact me?

If you raise or keep certain animals whose products are used for food (specifically cows' milk, chicken, turkey or eggs) and regulated by a board, you may be affected by this review.

However, personal use is exempted. You can start up to 200 chickens or 50 turkeys every year, or keep any number of milking cows, as long as none of the milk is sold. You can also keep up to 99 laying hens and the eggs can be for personal use or for sale on the farm to individual customers.

If you exceed personal exemption numbers, or want to sell any milk, chicken or turkey you produce, you will need to obtain a producer license and either a permit or quota from the relevant boards.

2.2 Do I have to register with the board(s)?

All producers, regardless of size or type of operation, exempt or not, are encouraged to register their operation and production with the appropriate board(s). This is to provide the industry with knowledge of where all production is located in the event of a food safety recall or animal-borne disease outbreak.

2.3 How are agricultural products regulated in British Columbia?

Milk, chicken, turkey, eggs and broiler hatching eggs are "regulated farm products" managed under national programs known as *supply management*. These programs control the supply for each commodity by establishing the overall national market needs and then allocating a portion of that market need to each province. The goal is to match production to demand, thereby attempting to avoid surpluses, maintain price stability, provide market access for producers and avoid market volatility often associated with perishable farm products.

Five boards (BC Milk Marketing Board, BC Chicken Marketing Board, BC Turkey Marketing Board, BC Egg Marketing Board and BC Broiler Hatching Egg Commission) are responsible to work within the national programs to manage production within the province of BC.

These boards manage production by issuing “quota” to individual producers, providing them with the right and the obligation to produce a set amount of regulated farm product within a defined period of time. When there are changes in demand at the national level there will be changes in the amount of production a province is authorized to produce, known as the provincial allocation. Changes to BC’s provincial allocation will change the quota allotment to individual producers.

These boards also control the farm gate price for milk, eggs, chicken, turkey and broiler hatching eggs. Producers may not sell, and processors and graders may not buy, for less than the Board set price. The boards publish price lists periodically, making changes in response to input production costs and market conditions.

In addition to the five supply-managed boards, BC has marketing boards for cranberries, hogs and vegetables. These three were not subject to or affected by the Specialty Review.

2.4 Why has FIRB undertaken a review of specialty production and new entrant programs?

While supply management programs have been very successful in providing for market stability, there has been considerable change in the markets for regulated farm products since the programs were established in the 1960s and 1970s. In particular, there has been a growing demand in BC for “specialty” products (e.g. Certified Organic) and for local products sold directly by the farmer.

In order to produce eggs, milk, chicken, turkey, or broiler hatching eggs, a producer must be licensed by the relevant board and be issued a permit or quota to produce a defined amount of production. Quota is issued by the board to a producer. The board limits the total amount of quota issued among all licensed producers to equal the amount of the provincial allocation. As such, production is limited in total amount in any one period and is distributed among producers according to rules established over the years.

The boards authorize the transfer of quota and permit from one producer to another. While the boards attribute no value to quota, a secondary market for quota has developed. A producer wishing to reduce their production or exit the industry (the seller) can recommend to the board that their quota be transferred to a specific person (the buyer). When a board authorizes the quota transfer there is an exchange of funds between the seller and buyer. Boards themselves do not participate in the sale and purchase transaction: their role is limited to authorizing the transfer from one producer to another. Over time, producers have been willing to pay material amounts of money to acquire quota and thereby the right to produce and market milk, eggs, chicken, turkey or broiler hatching eggs.

The Ministry of Agriculture and Lands has established an economic policy that places particular emphasis and importance on serving BC’s specialty and regional markets with locally grown products (find the link at <http://www.agf.gov.bc.ca/polleg/regulatedmrkt/>). The FIRB, which supervises the operations of the boards, determined that a thorough review of specialty product marketing was required to ensure that the board programs respond to this policy framework and address the unique market and production needs of specialty products which include higher costs of production and marketing. It was also important to address the difficulties that specialty and small scale regional producers were having in obtaining permits to produce eggs, chicken, turkey or milk.

In this review, the five boards were required to develop proposals to implement the policy. FIRB reviewed the boards' proposals and issued its directions to the boards on September 1, 2005. For further information on the Specialty Review process and to view the FIRB report and directions, see http://www.firb.gov.bc.ca/specialty_review.htm.

2.5 How will specialty production fit within the supply management system?

In the broadest sense, the objective is to serve BC's markets with BC product. The supply management system has been in existence for 30+ years and is well established. This system has served mainstream commodity markets and producers very well. However, the provincial government and FIRB have determined that changes are required to better serve BC's specialty markets.

Following a consultative process, FIRB has provided the boards with policy and direction concerning their specialty production and marketing programs and the programs which provide opportunity to new producers to enter the industry. FIRB's policy directions are aimed at providing better integration of specialty production within the supply management system and the opportunity for specialty producers in BC to serve BC's specialty markets. FIRB recognizes that implementing these policies and directions will require changes to BC's supply management system.

There will be challenges as boards and producers implement this policy direction. Boards are required to operate within the provincial allocation established by national agencies. Failure to operate within this supply allocation can result in financial penalties and reduced production allocations to the province. Established producers have expectations concerning their share of the provincial allocation based on the quota they have had allocated to them by the boards and past practices of the boards distributing these allocations. Any changes by the boards to recognize different product categories such as specialty products are bound to be contentious. And there are also quite different approaches to farming, production and marketing between some specialty producers and the established mainstream producers. These differences have been long-standing and have even resulted in litigation in certain situations.

2.6 How is specialty defined?

The vast majority of eggs, chicken, turkey and milk is produced and marketed as a commodity. This means the production of many farms can be purchased by a processor or grader, processed and packaged, labeled and distributed to food service or retail channels without concern for keeping the production of each farm separate and distinct. As a commodity, the product is required to meet certain minimum production and food safety standards as established by government and industry, but what makes a farm product distinct in the market is the result of different processing and marketing procedures rather than different on-farm production practices.

Specialty is therefore defined first as being different from a commodity.

For the purposes of the board orders for eggs, chicken, milk and turkey, specialty products are defined as those having unique farm-based attributes that are identified, marketed and represented as unique to the end consumer. Additionally, a specialty product can be reasonably expected to require extra effort to produce and market, and also to attract price premiums in the marketplace, and they will require third-party certification from farm to plate by an accredited certifying body.

The FIRB has recognized Certified Organic eggs, chicken, milk and turkey, and Asian specialty chicken, as **designated specialty products** under the boards' management. Other products such as

free range and free run eggs and production under SPCA protocols have not been designated as specialty.

2.7 As a producer of a supply managed product, what are my options?

If you wish to produce eggs, chicken, milk or turkey on a small scale or as a designated specialty, you have several options. These include personal exemption (see 2.1), applying for a small lot permit, applying to be a new entrant, or acquiring specialty quota from another producer who holds specialty quota and is prepared to have it transferred to you. You may also, under certain circumstances, hold or acquire regular quota and apply to have it authorized to produce a specialty product. The option you choose will be linked to the size of your operation.

If you want to produce over the personal exemption levels and sell your products, but do not want to apply for quota as a new entrant, you may apply to the appropriate board(s) for a **small lot permit**. These annually renewable permits are intended for product innovation, local/regional production, heritage breeds, or agri-tourism businesses – as well as specialty production. Only one permit per commodity will be issued per property. Limits will be 3,000 kg chicken per year and 300 turkeys placed per year. In eggs the limit will be 399 layers, and initially restricted to Certified Organic specialty producers. The BC Milk Marketing Board has been directed to establish a small herd program for on-farm value-added manufactured milk or heritage breed needs. As a small lot permit holder, you will not receive quota, nor will you be eligible to vote on industry matters.

New entrant programs are intended to encourage new producers to enter the industry and become active farmers. If you meet the criteria to be a new entrant, which include not holding or previously having held supply management quota, apply to the appropriate board(s). Each board will provide some amount of incentive quota to new entrants. Priority will be given to new entrants wanting to produce a specialty product or serve a regional market.

2.8 What if I am a small producer but do not produce (or want to produce) a certified specialty product?

See the discussion of small lot permits in question 2.7.

The Province and FIRB are committed in principle to support regional as well as specialty markets. FIRB has directed that the number of small lot permits issued by the boards should be unrestricted, that only one permit should be issued per commodity per property, and that the permit holder should be encouraged to direct market his or her products. FIRB acknowledges that there are particular challenges with eggs (chiefly restrictions in national allocation) that limit the number of layers currently available.

2.9 What if I already have a permit from a supply managed marketing board?

In most cases, the boards have had permit programs by which they authorized certain volumes of specialty production.

As part of FIRB's review and directions, the boards are to convert these permit programs to **specialty quota**. If you already hold a permit and/or quota, you will be given the opportunity to declare whether you wish to convert it. Permits will recognize, at a minimum, the authorized volume produced in the 12 months ended December 31, 2004 or the nearest quota cycle to this 12-month period. Each board's permit conversion approach is different. You should contact the appropriate board(s) for information on the permit conversion process (see contact information in section 3).

2.10 If I have specialty quota, can I use it to produce regular product?

No, specialty quota is to be used for the production and marketing of designated specialty products. The Specialty Review calls for establishment of quota classes. The specialty quota class is distinct from the regular (sometimes called “mainstream”) quota class. Quota classes are to be separately and equitably managed.

2.11 If I hold regular quota and do (or want to) produce specialty product, must I convert my quota to specialty quota?

FIRB does not intend that regular quota holders can switch in and out of specialty production or that specialty quota holders can switch into regular production.

In situations where a holder of regular quota is presently producing a designated specialty product, it seems reasonable that this producer should have the ability to elect to continue producing the specialty product or changing back to a commodity product. In making a change, it will be important that the change be managed so that the specialty market filled by that quota holder could continue to be filled. If the producer determines to continue producing the specialty product, it also seems reasonable that their quota should retain its ability to be transferred as regular quota. In these cases, some form of grandfathering of these rights will need to be considered by the boards for those producers who have used regular quota for specialty production.

In a situation where a holder of regular quota wishes to convert to production of a designated specialty product, this would be subject to the board working with its advisory committee to determine market needs and whether these needs are already filled or will be filled by a combination of new entrants and established specialty producers.

FIRB intends that boards will be able to authorize the temporary switching from regular to specialty production using regular quota based on market needs.

2.12 If I want to stop production, can I transfer my quota?

All quota can be transferred, but under specific conditions. Quota can only transfer within its class. For instance, specialty quota may only be transferred as specialty quota. All quota will be subject to an assessment schedule where some amount of the quota proposed to be transferred is retracted by the board to distribute to new entrants. The amount retracted or assessed by the board depends on how soon you want to transfer it after you receive it.

Quota transferred in the first year following its issue will be assessed at 100%. In subsequent years, the amount retracted will decline by 10% per year until it reaches a minimum assessment of 10% in year 10. Any quota transferred after year 10 will be assessed at 10%. (This is known as the 10-10-10 rule.) The only exceptions to the transfer assessment requirement are for transfers among direct family (defined as spouse, sons or daughters) and for business reorganizations where the ownership percentages do not change.

2.13 How do I expand my operation?

You can expand your operation in two ways. In each production cycle, the board receives an authorized production level from the national agency. This provincial allocation is distributed among

all quota holders pro-rata to their quota holding. When the allocation increases, your production can expand by the amount allotted or authorized to you as a quota holder.

Second, you may acquire quota from another producer seeking to reduce his or her quota holding. While some boards coordinate these transfers through a quota exchange, most quota transfers are negotiated directly between producers or are facilitated by brokers. In many cases feed and chick salespeople serve as brokers. So, to expand by acquiring quota you will need to register with the board's quota exchange and/or make contact with other producers and brokers who may be in position to assist you negotiate a transfer.

Notwithstanding who is transferring and who is receiving, any request to transfer quota must be filed with and approved by the marketing board before the quota transfer can be finalized.

2.14 Can I lease out my incentive quota received from the new entrant program?

No. If you receive incentive quota under a new entrant program, you must be actively engaged in farming and marketing the product.

2.15 What will it cost me to participate in the supply management system?

Producers in the system pay levies for administration of the system plus any additional services delivered by the boards. Levies are intended to be service based and assessed by each board according to the needs of each product class (e.g. regular or specialty).

Levies and fees that were assessed in the past specifically for a permit or quota use (sometimes called "quota lease levies") are to be discontinued.

2.16 How will specialty producers contribute to the new specialty programs?

Specialty Markets Advisory Committees will be set up by each board to provide advice and recommendations about the administration of specialty programs. Among other things, these committees will monitor market conditions, recommend designation of new specialty classes, and help develop food safety and biosecurity protocols appropriate for specialty production. These committees are intended to consist of an equal number of specialty producers and specialty processors or graders, a board member, and an independent chair appointed by the board.

Concerns have been raised regarding the need for an independent chair for these advisory committees, specifically in regards to cost and availability of qualified people. FIRB is prepared to consider chairs being selected from among the specialty producers and specialty processors/graders on the committee if the committee members feel this is the more prudent and efficient way to proceed.

2.17 Can I form a new company and apply for quota on the new entrant program with this new entity which has never owned quota?

If you have previously owned quota you would not be eligible as a new entrant even though you are applying through a new company. The intent of the new entrant program is to give people not presently or previously in the system the opportunity to enter.

2.18 Now that FIRB has made its directions regarding specialty production, how will the new programs be put in place and kept on track?

Boards are preparing draft Orders for review by FIRB and circulation to industry. Industry stakeholders will have an opportunity to comment on the draft Orders and make written submissions to FIRB. Subject to any final directions by FIRB, the boards will approve their Orders.

The boards will then, in consultation with the Specialty Markets Advisory Committees, develop criteria for allotting the provincial allocation among the quota classes, establish fees and levy rates for specialty production, and develop progressive enforcement policies for compliance situations.

FIRB intends to closely monitor the individual board programs on an ongoing basis and conduct a formal review of the performance of the specialty and new entrant programs after three years.

FIRB directions are reviewable, and in accordance with s. 57 of the *Administrative Tribunals Act*, “an application for judicial review of a final decision of the (FIRB) must be commenced within 60 days of the date the decision is issued.”

Any person who is aggrieved or dissatisfied with an order, decision or determination of a marketing board may file an appeal to FIRB under s. 8 of the *Natural Products Marketing (BC) Act*. Information on the appeal process and how to file an appeal is available on the FIRB website.

With regard to the Specialty Review and the implementation of FIRB directions, where a marketing board has exercised its discretion and makes an independent decision as to how a FIRB direction will be implemented or applied, this decision is subject to appeal.

3. TO OBTAIN INFORMATION

FIRB Directions

For a summary of the Specialty Review and to review related documents see http://www.firb.gov.bc.ca/specialty_review.htm, email firb@gov.bc.ca or call 250 356-8945 (Victoria).

The following are sources for information regarding government regulations governing the slaughter of livestock and the sale of farm products. These regulations are not administered by the boards and are not addressed in the Specialty Review.

Meat for sale

If you raise livestock or slaughter or process meat for sale, you will also be affected by BC’s new *Meat Inspection Regulation*. For more information on this regulation, see *Selling and Buying BC Meat -- What you need to Know*. You can download a copy of this guidebook from the BC Food Processors Association website: <http://www.bcfpa.ca/mies.html> or order a print copy by calling Julie Labelle at 250 356-1660.

Sales at farmers’ markets

If you sell your products at farmers’ markets: Food sold through farmers’ markets is regulated under the Food Premises Regulation, administered by your local Health Authority. For information on

requirements for preparing and selling foods at farmers' markets, contact your local public health inspector. Contact information for local health authorities can be found at <http://www.healthservices.gov.bc.ca./socsec/contacts.html>.

Sales of eggs beyond the farm gate

If you sell eggs beyond the farm gate: Eggs for sale off the farm must have been graded at a licensed grading station, according to the requirements of the *Shell Egg Grading Regulation*. For further information on egg grading requirements, call S. Paulson, Poultry Industry Development Specialist, Industry Competitiveness Branch, Ministry of Agriculture and Lands, Abbotsford, BC, Tel: 604 556-3083 or Toll Free: 1-877-877-2474.

Products regulated by non-supply-managed boards

Vegetables, hogs and cranberries are administered by marketing boards. You should contact each board to see what requirements, if any, apply to production in your area. These commodities are not addressed or impacted by the Specialty Review.

- BC Cranberry Marketing Commission * c/o 71 - 4001 Old Clayburn Road, Abbotsford, BC V3G 1C5 * Tel: 604 852-8585 * General Manager Jack Wessel, jwessel@telus.net
- BC Hog Marketing Commission * 2010 Abbotsford Way, Abbotsford, BC V2S 6X8 * Tel: 604 853-9461 * Chair Rita Walker, info@bcpork.ca * Web: www.bcpork.ca
- BC Vegetable Marketing Commission * 207, 15252 - 32nd Avenue, Surrey, BC V3S 0R7 * Tel: 604 940-0188 or Toll-free: 1-800-663-1461 * General Manager Tom Demma * Web: www.bcveg.com

For advice on specifics of each board's specialty and new entrant programs, contact:

BC Broiler Hatching Egg Commission

180 - 32160 South Fraser Way, Abbotsford BC V2T 1W5

Tel: 604 850-1854

Fax: 604 850-1683

Email: lori@bcbhec.com

Web: www.bcbhec.com/

BC Chicken Marketing Board

101 - 32450 Simon Avenue, Abbotsford BC V2T 4J2

Tel: 604 859-2868

Fax: 604 859-2811

Email: info@bcchicken.ca

Web: <http://www.bcchicken.ca/>

BC Egg Marketing Board

150 - 32160 South Fraser Way, Abbotsford BC V2T 1W5

Tel: 604 556-3348

Fax: 604 556-3410

Email: bcep@bcegg.com

Web: <http://www.bcegg.com/>

BC Milk Marketing Board

200 - 32160 South Fraser Way, Abbotsford BC V2T 1W5

Tel: 604 556-3444

Fax: 604 556-7717

Email: info@milk-bc.com

Web: <http://www.milk-bc.com/>

BC Turkey Marketing Board

106 – 19329 Enterprise Way, Surrey BC V3S 6J8

Tel: 604 534-5644

Fax: 604 534-3651

Email: admin@bcturkey.com

Web: <http://www.bcturkey.com/>

Remember that if you are making a long-distance call to a provincial government agency, you can place your call through Enquiry BC free of charge. Here's how to reach Enquiry BC:

In Victoria call: 387-6121

In Vancouver call: (604) 660-2421

Elsewhere in BC call: 1-800-663-7867

E-mail: EnquiryBC@gov.bc.ca