



August 25, 2004

File: 44200-60/SPEC

**DELIVERED BY FAX**

Honourable John van Dongen  
Minister of Agriculture, Food and Fisheries  
Room 137  
Parliament Buildings  
PO Box 9043 Stn Prov Govt  
Victoria BC V8W 9E2

Dear Minister:

**REVIEW OF SPECIALTY PRODUCTION AND MARKETING IN THE REGULATED MARKETING SECTOR**

In September 2003, the British Columbia Farm Industry Review Board (the “Provincial board”) directed the five supply managed boards and commissions (“boards”) to review and assess the specialty production and marketing of their commodities.

The Provincial board’s direction to the boards to undertake this review recognized the reality that much time had passed and considerable resources had been expended without resolution of this issue. As identified in numerous appeals and reviews over the years, the unique features of specialty production must be properly recognized and accommodated by the boards as part of effective regulation. This review was therefore based on the premise that proper regulation of conventional and specialty production must in a realistic way take into account that markets are not static, that specialty production is here to stay and is a dynamic part of our food production system that will continue and grow in the appropriate regulatory environment. Proper regulation must take into account the commonalities, and the differences, within which conventional and specialty production must operate in a commodity scheme.

During this review, the Provincial board has considered the history of specialty regulation in British Columbia and elsewhere, the initial reports received from the boards and the submissions and other information received from the organic and other specialty sectors. The Provincial board has also had the benefit of reviewing the recent July 26, 2004 *Regulated Marketing Economic Policy* (the “Economic Policy”) issued by the Ministry of Agriculture, Food and Fisheries (the “Ministry”), which refers to specialized production and marketing in British Columbia.

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Farm Industry Review Board

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A key purpose of the Provincial board's review was to encourage regulators and stakeholders to make every effort to escape the polarized views that have dominated the regulation of specialty production in the past. This polarization was reflected, for example, in certain stakeholders seeking to argue that their specialty production is not and should not be associated with the existing commodity schemes at all, while certain other stakeholders have taken the position that specialty production should never be recognized except by reference to purchase of quota.

The question is not whether specialty production should be regulated but how regulation is to be most effectively structured. Such issues as how "specialty" production should be defined in a particular commodity sector or for a specific purpose, what if any exemption levels or grandfathering should apply, whether or to what extent specialty production rights should be transferable and where and how stakeholders should participate in advising and assisting the boards from a governance perspective need to be addressed. By the same token, proper regulation is not advanced by the notion that specialty production can only ever be recognized by the purchase of quota; the real question relates to striking a proper balance between the requirement to purchase quota, receive permits or receive exemptions (each with corresponding entitlements and costs). Each option should be assessed according to the nature and growth of specialty production in each sector, the markets served by that production, whether or how it competes with markets for other production and the relationship it has to new entrant programs.

The review proceeded on the basis that any operational solution imposed by the Provincial board or government should be a last resort, and that the best approach is a creative and principled one developed at first instance by commodity boards and stakeholders. It is in this light that we have reviewed the information received to date from the boards and from the organic and specialty sectors.

Based on our study of the submissions and information to date, it became evident that to best achieve the purposes of this review, further steps should be taken at this time. Although some very good information has been presented, the overall lack of precision in addressing key issues and the lack of commonality on certain questions could present some significant limitations to moving forward in a timely and cohesive manner.

These further steps should ensure that each board's programs are reviewed or established within a framework that is consistent with the needs of the regulated marketing system and all producers generally, and with the expectations of the Economic Policy specifically. To that end, after careful consideration and after many years of involvement in specialty production and marketing issues through appeals, this review and earlier reviews, the Provincial board has reached certain preliminary conclusions regarding which principles might govern the regulation of specialty production and marketing in British Columbia. These draft principles are enclosed for your information.

As a matter of jurisdiction, the Provincial board could continue with its review and at this time proceed to invite further comment on these draft principles. However, the Ministry has advised the Provincial board that Government intends providing finality and certainty with respect to key policy questions concerning specialty production issues.

Since being advised by your Ministry officials of Government's intentions, we have carefully reviewed our role and responsibilities and whether or not to proceed with the next phase of our process while a concurrent Government review is ongoing. Our considered judgment is that in view of the history, nature and unique dynamics associated with these issues and given the additional reality that Government has been required to review certain issues in the poultry industry as a result of the impact of Avian Influenza, the efficient and common sense approach at this time is for the Provincial board to suspend its ongoing supervisory process while Government exercises its own review regarding the appropriate policy solutions to key specialty production issues.

After being notified of the outcome of any Government review, the Provincial board will determine whether or how to exercise any ongoing supervisory role in this area.

Finally, the Provincial board would strongly encourage ongoing consultation by or on behalf of Government during its review with the boards, commissions, the specialty sectors and the Provincial board. The Provincial board would also request that it be consulted before Government moves ahead with confirming any new policies, to ensure that they will be workable in practice and to ensure that all implications have been fully considered.

If I can be of further assistance by way of providing background information pertaining to our review and to the attached draft principles, I would be pleased to do so.

Yours truly,

A handwritten signature in black ink, appearing to read 'Richard Bullock', with a long horizontal flourish extending to the right.

Richard Bullock  
Chair

Enclosure

cc: Rory McAlpine, Deputy Minister  
Agriculture, Food and Fisheries

Daphne Stancil, Assistant Deputy Minister  
Strategy, Policy and Legislation  
Ministry of Agriculture, Food and Fisheries

Shawn Heppell, Chair  
Council of Marketing Boards of British Columbia

Jeff Regier, Acting Chair  
British Columbia Broiler Hatching Egg Commission

Michel Maurer, Chair  
British Columbia Chicken Marketing Board

David Taylor, Chair  
British Columbia Egg Marketing Board

John Jansen, Chair  
British Columbia Milk Marketing Board

Shawn Heppell, Chair  
British Columbia Turkey Marketing Board

Gunta Vitins, National Marketing Manager  
Pro Organics Marketing Inc.

# **BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD**

## **DRAFT**

### **Principles for Consideration in Support of Specialty Production and Marketing In the British Columbia Supply Managed System**

**August 25, 2004**

#### ***Definition of Specialty Production and Marketing***

Each board should be responsible for determining the specific and objective criteria through which eligibility for a specialty program is established in its commodity. In defining such production, boards could look at such factors as: niche or regional demand not being met through conventional channels; product clearly defined at the farm level; or product which meets the requirements of nationally or provincially accepted certification programs.

#### ***National Systems***

It must be recognized that the five supply managed commodities operate under federal-provincial agreements which place limits on the total amount of production available to British Columbia. To the extent that under national programs the regulated industries are to serve the overall demand for commodities, boards must also serve the growing British Columbia demand for differentiated products. Specialty production policies must recognize that production is accountable as part of the province's allocation for each commodity. In this context, the division of production within the province and the related issue of affordability are critical factors, as is the need for the boards to pursue and obtain additional allocations to meet all market demands.

#### ***Public Interest***

Priority should be given in all specialty programs to producers who have not previously been issued quota by a board. Quota producers may, however, be eligible to participate in circumstances where market demand for specified specialty products is not being adequately met.

In those circumstances where a board determines it is appropriate to exempt producers of a specialty product from regulation applicable to conventional producers, exemption criteria must be clearly set out and the board should provide for appropriate compliance, monitoring and risk management (such as bio security requirements) through the exercise of its licensing authority. Criteria should also be established to review whether the exemption of a class of producers or a class of the regulated product continues to be appropriate, or should be revoked.

### ***Affordability***

Quota and permits will remain the exclusive property of the board or commission, to which the board or commission should not attach any monetary value. As with conventional products, license, permit fees and levies should be based only on the costs to administer the specialty program, the costs to maintain the marketing scheme generally; and on the services provided to the permit holders.

### ***Transferability***

In general, permit issued under a specialty program should be non-transferable and revert to the board if it is not being used for the specified purposes of the program. Special circumstances may warrant allowing certain permits to be transferable or to acquire quota status, but this should only occur if a board has established clear policies that define the rules and limitations of such transfers.

### ***Administration***

The administration and governance of specialty production programs, including the receiving and approval of applications, must be designed to be fair, transparent, effective, and accountable, and must operate in a flexible and timely fashion.

### ***Accountability***

To maintain eligibility under a specialty program, a person must demonstrate, at any time required by the board and to the board's satisfaction that they are actively involved in the production and marketing of a specialty product that is distinct and separate from conventional production and that they are in compliance with the terms of the program.

### ***Sustainability***

In recognition that the availability of quota fluctuates, boards should ensure that their specialty production programs do not require the surrender of permit or the replacement of permit with quota while a producer is in compliance with the program and/or the demand for the product exists.

In order to sustain specialty programs, boards should allot to such programs appropriate portions of the provincial allocation and increases to the provincial allocation. The percentage of the allocation allotted to specialty production programs and to individuals in that program may vary from time to time, subject to the need to ensure there is adequate production to meet existing demand and the need to promote the development of new markets for specialty products.

A percentage of quotas transferred between producers could be collected by each board, with a portion of this being dedicated back to specialty programs. A board could consider exemptions to this requirement if a province-wide quota exchange has been instituted and is operating effectively.